

THE INF TREATY

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE
UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF
THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES

MARCH 14, 16, 17, AND 22, 1988

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THE INF TREATY

MONDAY, MARCH 14, 1988

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 2 p.m. in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Sarbanes, Cranston, Dodd, Adams, Moynihan, Helms, Lugar, Murkowski, Pressler, Tribble, and Evans.

The CHAIRMAN. The Committee on Foreign Relations will come to order.

We are very pleased to welcome Secretary of State Shultz.

Secretary Shultz was our first witness on the INF treaty, and his appearance now toward the end of the hearing process will afford him an opportunity to make a summary case for the treaty and allow members an opportunity to resolve any questions or doubts they may have.

The committee will receive a report from Senators Boren and Cohen on the Intelligence Committee's assessment, and Senators Nunn and Warner will present a report to the committee next week on the Armed Services Committee's assessment of military aspects.

Our own hearings have been very thorough and comprehensive, and I believe our committee has a thorough knowledge of the treaty and its implications when we begin markup.

Mr. Secretary, I had an opportunity to visit Munich and five NATO capitals last month with the majority leader and three other Senate leaders—chairmen, ranking members last month—and I was gratified to learn firsthand of the support given the treaty by the alliance leaders. I was pleased to find they place a high priority on the attainment of a START agreement—we are all looking ahead to that—the conclusion of a chemical weapons ban at the Geneva conference, and attainment of a verification agreement which one hopes would open the way to ratification of the 1974 TTBT, Threshold Test Ban Treaty, and the 1984 PNET, Peaceful Nuclear Explosions Treaty.

So I hope you will inform us of your views this afternoon and be able to answer our questions.

The ranking minority member, Senator Helms.

Senator HELMS. Mr. Chairman, thank you very much.

Mr. Chairman and Mr. Secretary, for 7 weeks this committee has been examining the INF Treaty, and the 7 weeks have not been altogether encouraging. What has been made obvious to those who

are willing to examine the treaty is that there is a wide gap between the administration's public representations about the treaty and the information that we have received in closed sessions.

Indeed, after many hours of listening to testimony in both public and private, the administration's public presentation of the treaty comes through as almost a tissue of confusion and misstatements, and I use the word advisedly, misrepresentations.

A few examples, and there are many other examples, but there is the claim that this treaty reduces nuclear weapons. In fact, the distinguished Secretary said here on January 25 that the treaty, and I quote him, "The treaty reduces nuclear weapons rather than setting guidelines for their future growth."

But we have learned during the hearings that nuclear weapons are not reduced at all only the delivery vehicles are to be eliminated. The nuclear warheads, that is to say, the most expensive and most technologically difficult part of the device, can and will be transferred by the Soviets to upgraded delivery vehicles.

This should really be called the Soviet nuclear force modernization treaty.

Then the Secretary told us on January 25 that the treaty, and I quote him, "requires the United States and the Soviet Union to eliminate their intermediate-range missiles within 3 years." But in subsequent hearings we found out that the definition of "intermediate-range missile" is so narrowly drawn that the treaty does not include all missiles with an intermediate-range capability. In fact, the term "intermediate-range missile" is almost meaningless since any intermediate-range missile that also has a capacity in excess of 5,500 kilometers is permitted to remain.

Then we were told, and I quote the Secretary, "that NATO would retain a variety of systems that could perform the critical deterrence missions." But expert after expert subsequently testified that the so-called nuclear weapons that remained were by and large battlefield weapons that would explode on allied territory instead of in Soviet territory as the Pershing II would do.

Then we were told that the Pershing II's and SS-20's were not considered strategic. It may be true that the administration does not consider them strategic, but there is no evidence that the Soviet Union does not consider them strategic. In fact, the Soviet strategy is tripartite, consisting not only of offensive and defensive systems, but also ground and air operations in Europe. The subjection of Europe either by threat or by conventional forces is now and always has been a prime goal of Soviet strategy.

The removal of the SS-20's, if they really are to be removed, all of them, does not remove the Soviet capability to threaten Europe either through political pressure or military intimidation. Our removal, on the other hand, of the Pershing II's removes the only credible deterrent against this third arm of Soviet strategy.

Then we were told that the obligation to remove the intermediate missiles was global, and that we would have onsite inspection of declared sites. But the United States knows full well that missiles prohibited in this treaty were in fact deployed in Cuba. Now, this treaty fails to provide the onsite inspection that the Soviets promised the United States in 1962, and while the White House says that it has no evidence that missiles are in Cuba, it is also

true, as Admiral Crowe testified before this committee, that we have no capability to detect missiles unloaded at night and hidden in Cuban caves.

Then we were told on January 25 that "This agreement has the most stringent and comprehensive scheme of verification in the history of arms control." But we can have onsite inspection only at those sites where the Soviets permit us to look, which of course is exactly the places where the Soviets will not keep a covert force.

Now, the scheme of verification may be more stringent when it is compared to nothing, which is what we had before, but it is as full of holes as a piece of Swiss cheese.

Finally, the close design relationship between the SS-20 prohibited by the treaty, and the SS-25, which is not covered by this treaty, makes it perfectly feasible to keep SS-20's in SS-25 containers and test them on SS-25 launchers and train their troops on SS-25 sites, which we cannot inspect and which our national technical means cannot detect.

So, it is very clear, Mr. Chairman, that the Soviets can actually dismantle 650 SS-20 delivery vehicles, and we will be able to verify that 650 SS-20 delivery vehicles have in fact been destroyed, but not the warheads, only the delivery vehicles.

Even so, this treaty denies us the ability to detect whether a covert force of SS-20's remains outside the treaty's structure of verification.

And that is what makes the range of estimates of SS-20's produced so crucial to our understanding of the treaty. The administration has maintained that the Soviet declared number of 650 SS-20's is "within the range of estimates," and based on press reports, it may be within that so-called range. But the key question is whether the rockbottom estimates provided by the State Department and the CIA, both known for underestimating Soviet military capabilities in the past, should be given any credence whatsoever.

The fact is that the majority of our intelligence agencies, excluding the CIA and the Department of State's INR, are confident that the number of SS-20's is much higher; figures of 950, even 1,250, as Admiral Crowe testified before the Armed Services Committee.

The view that there are probably 300 to 600 more SS-20's than have been declared is too wide a range of difference to be dismissed as within the range of estimates. The catastrophe of being wrong is too great a consequence to face.

Of course, the exact details of these matters can and will be discussed only in closed session. Nevertheless, I think the public needs and deserves to be alerted to the wide divergence between the public face which has been put on this treaty and the truth which can be examined only in secret session and without the knowledge of the public.

Thank you, Mr. Chairman.

[The prepared statement of Senator Helms may be found in the appendix.]

The CHAIRMAN. Thank you, Senator Helms.

I would point out that the weapon is of no use without the missile. I think Mr. Shultz is very well qualified to give us the views of the administration and his reasons and the reasons of many of us on the committee why the treaty should be ratified.

Senator ADAMS. Mr. Chairman, before you do that, I just do not want the record to stand as it is. I have attended these hearings, both closed and open, and I cannot believe that I have heard what I just heard. The administration's face in the closed session as well as the public session, has been consistent, and at all times we have understood such things as you could not destroy a nuclear warhead without exploding it, you cannot bury it. Everyone agreed it should go to the stockpile.

And the estimates that have been given are consistent. If you take out all the agencies for it, of course you have got a majority against it.

I just wanted to state that this Member has a different impression entirely from my good friend from North Carolina. I wanted that stated because we have both been there, and I do not agree with his conclusions. I wanted that on the record very clearly.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Adams. I would add that I share the same sentiments.

Mr. Shultz.

STATEMENT OF HON. GEORGE P. SHULTZ, SECRETARY OF STATE, ACCOMPANIED BY, HON. PAUL H. NITZE, AMBASSADOR, SPECIAL ADVISER TO THE PRESIDENT AND SECRETARY OF STATE FOR ARMS CONTROL MATTERS; HON. MAYNARD GLITMAN, AMBASSADOR, INF TALKS; AND LT. GEN. EDWARD L. ROWNY, USA (RET.), SPECIAL ADVISER TO THE PRESIDENT AND SECRETARY OF STATE FOR ARMS CONTROL MATTERS

Secretary SHULTZ. Thank you, Mr. Chairman, gentlemen.

Senator Helms, in a sense I am not so sure what I am doing here testifying before you.

Are you accusing me of sitting here deliberately misrepresenting facts?

Senator HELMS. No, sir, no, sir.

Secretary SHULTZ. That is what I thought you said.

Senator HELMS. I did not say deliberate.

Secretary SHULTZ. I do not know what I am doing here if the committee thinks I am misrepresenting things.

Senator HELMS. Well, you will have to determine why you are here.

The CHAIRMAN. He is here because we invited him.

Secretary SHULTZ. Well, I am here to provide to this committee, on instructions from President Reagan, with all of the information we have at our disposal about this treaty.

And I think we have done so. We have testified, we have our negotiator and the negotiator that preceded him. The records are here. We have been in closed session, as you have noted, and in open session.

I do not think there is inconsistency between what we have said in these different places, as Senator Adams has pointed out. And so, to come here, I can handle it fine if people say they do not agree with me, but if they say I am misrepresenting, then I really have a lot of trouble with that.

Senator HELMS. You are not the only one who testified in favor of the treaty, Mr. Secretary.

I would just ask you this, did I misquote you at any time during my statement?

Secretary SHULTZ. I do not have any quarrel with the quotations you gave, and they are straightforward efforts to say what is the case about this treaty, and all of our efforts here have been guided by that approach.

We are engaged in a joint enterprise here with you in trying to examine something that is very important for the security interests of the United States. And we can only do it properly according to our constitutional methods if we act in good faith with each other.

And I have certainly tried, and I know all of my colleagues have, to provide information, and I think the record would show that there has been more information provided, more questions answered in all of the record of negotiations on file here and so on.

I think it is unprecedented, and it is all done in a good spirit and a straightforward spirit. As I say, there is obviously plenty of room for differences of judgment and so on, and that is why we are here, but "misrepresentation" is not a word that it seems to me that belongs in this.

Senator HELMS. Well, the contradictions are self-apparent, regardless of what Senator Adams says or whatever.

I suggest you go on with your statement. Then we can follow up with questions, and you can reply to me as you wish.

Secretary SHULTZ. Thank you, sir.

Mr. Chairman, it has been 7 weeks since I testified before this committee on behalf of the INF Treaty.

Since then, the treaty has received careful and thorough examination by this committee, by the Armed Services Committee, and by the Select Committee on Intelligence. I have followed the hearings carefully. I believe the three committees have examined all the tough questions in a searching and responsible manner.

We have sought to give you as complete a picture as possible of this treaty. Senators have submitted more than 1,000 written questions to the administration and to our witnesses. Our written answers, together with our testimony, have offered extensive information. In addition, we have taken the exceptional step of providing to the Senate our records of the INF negotiations.

I testified to you at some length in my last appearance. I think the case I made then for the treaty stands up well. That is because the treaty stands up well. I believe that, as it considers all the relevant evidence, this committee should recommend consent to ratification of this treaty without amendments or conditions.

There is one fundamental question you are called on to answer as you consider this or any other arms control treaty. Is it in the security interests of the United States?

In the nuclear age, the only true basis for security is collective security. This means a strong defense and strong alliances. For almost 40 years, with consistent bipartisan support, our commitment to the NATO alliance has been a basic element of our national security policy. By strengthening NATO, the INF Treaty strengthens the United States.

From the outset, the INF process has been, first and foremost, about the security of NATO. It has been based on the fundamental principle that a threat to any part of the alliance is a threat to all of it. I reviewed in my earlier testimony how in 1979 the alliance adopted the dual-track strategy to meet such a threat and how it carried that strategy out with steadfastness and determination.

In its 1979 decision, NATO clearly established its objective to meet the challenge of the growing disparity between NATO and Warsaw Pact capabilities in INF missiles. In 1981, President Reagan proposed the zero outcome. The allies agreed then and repeated throughout the 6 years of negotiations that the zero outcome was the best possible way to achieve the objectives NATO had established.

NATO knew we would get nowhere in the negotiations unless we showed that we would take the necessary measures to preserve our own security.

U.S. INF deployments were absolutely essential to our success in Geneva. At the same time, we kept the courage of our convictions at the bargaining table and persisted until our objectives were achieved. We agreed on the essential elements of a good agreement. By now you are familiar with them.

Equality of right and limits. United States and Soviet systems only; global limits, with no transfer of the threat from Europe to Asia, or vice versa; no adverse effect on NATO's conventional defenses; and effective verification.

I described in detail during my last appearance how, over a period of 6 years, we moved from a situation in which the Soviets rejected all of these security criteria to one in which they signed a treaty that embodies each and every one.

No one can have any doubt about how our allies feel about this treaty. When NATO leaders met in Brussels less than 2 weeks ago, they spent their time looking forward, not back. For those interested in the future of NATO, I commend to your attention the summit declaration and the separate statement on the way ahead and the next big challenge for the alliance, conventional arms control.

I want to quote to you exactly what our allies had to say at the summit about the treaty you now have before you for consideration. I am quoting, "The recently concluded INF Treaty between the United States and the Soviet Union is a milestone in our efforts to achieve a more secure peace and lower levels of arms. It is the impressive result of political courage, the realism and the unity of members of the alliance. The treaty's provisions on stringent verification and asymmetrical reductions provide useful precedent for future agreements. We look forward to its early entry into force."

Secretary Carlucci, Admiral Crowe, the other Chiefs, and General Galvin have all described the security benefits of this treaty. Let me simply add that NATO defense ministers have also fully endorsed the treaty.

Many of you have heard this message of allied support firsthand, both from allied leaders who have come here, and from those with whom you have met on your own travels. In particular, I would note the trip last month by the majority leader in a bipartisan delegation which included you, Mr. Chairman, as you noted, and the

important report which it produced. Our friends and allies in the Far East, whose security will also be directly enhanced by this treaty, all fully support it as well.

The treaty is by no means a U.S. achievement alone. I give full credit to our allies, especially the five INF basing countries. NATO consultations on INF were unprecedented and directly enhanced allied solidarity. Nor is the treaty an achievement of this administration alone. NATO made the INF dual-track decision over a year before President Reagan took office. And this treaty is not an achievement of the executive branch alone. Congress has fully supported our efforts on the deployment track and in the negotiations, including through the Senate observers group, and I might say, including a vote in 1981 fully supporting and unanimous in the Senate, fully supporting the objectives the President sought.

As I followed the discussion in this and the other committees and reviewed the written questions that you and your colleagues posed, I singled out a few specific points which I thought I should address directly.

Does this treaty stand on its own merits? This treaty does just what NATO set out to do in 1979. It eliminates the disparity in INF missiles that led to the dual-track decision. As we devised our negotiating position in consultation with our allies, we ensured that it could always stand on its own merits. For years we rejected Soviet efforts to hold this treaty hostage to other areas of arms control. We did so because this treaty in and of itself enhances our security.

At the same time, the benefits of this treaty will clearly be enhanced if and when we conclude a START treaty, achieve a truly verifiable global ban on chemical weapons, and establish a conventional balance in Europe at lower levels. These are our priorities in arms control, and we are pressing ahead to achieve them. A single treaty can solve some of our problems, but no single treaty can solve all of our problems.

So, we should move ahead when we can and when we have an agreement that is clearly in our interest and that of our allies. To wait for everything to be done at once is the surest means of accomplishing nothing.

Does anything in this treaty keep us or our allies from taking the steps necessary to maintain an effective deterrent? The NATO summit declaration makes explicit that the alliance is "determined to sustain the requisite efforts to ensure the continued viability, credibility, and effectiveness of our conventional and nuclear forces, including the nuclear forces in Europe."

The allies agreed that "An appropriate mix of adequate and effective nuclear and conventional forces will continue to be kept up to date where necessary."

Those of you who have looked into the question have seen how completely we have succeeded in protecting such future options. We excluded from this treaty any language that the Soviets could twist to argue otherwise.

Article 14 of this treaty means exactly what it says, no more and no less. It does not affect existing patterns of cooperation or future cooperation in modernization.

When Foreign Minister Shevardnadze was asked by the Supreme Soviet last month if the treaty would block NATO force modernization, he replied that it gives no such guarantee.

In particular, have we somehow made a mistake by banning a conventional ground-launched Cruise missile? The United States and NATO did not and do not have any specific plans or military requirement to deploy conventionally armed ground-launched Cruise missiles with a range covered by this treaty.

There was no point in inviting the Soviets to add to their conventional and chemical threat by deploying their recently tested intermediate Cruise missile.

Moreover, the United States has been unable to develop and the Soviet Union has not put forth a regime to effectively verify the differences between nuclear and conventionally armed ground-launched Cruise missiles.

Thus, we would have to assume that any Soviet ground-launched was capable of carrying nuclear weapons.

This situation is different from the one in START, where the United States must and will protect its substantial force of nuclear and conventional sea-launched Cruise missiles as well as prospects for a conventional air-launched Cruise missile.

Do we need a more intrusive verification regime? There is no such thing as absolute 100-percent verification. The INF verification regime is the most stringent and obtrusive in history. You have heard considerable detail about it which I will not repeat.

It is our judgment that the treaty, through its successive layers of procedures, contains the measures needed for effective verification of compliance.

The zero outcome really pays dividends for verification. Once the elimination period is over, the existence of any intermediate- or shorter range missile would be a violation.

Flight testing is not permitted. Such testing can be detected by national technical means. Without testing, weapons lose their reliability over time and become obsolete.

Are there not uncertainties over the basic data? We designed this treaty so that we would not have to take Soviet data on trust. We also ensured that we would have more basic data for the INF Treaty than for any arms control treaty in history.

We have all the initial Soviet data and will get a complete update 30 days after the treaty enters into force. This gives us an excellent basis on which to assess the data we have developed ourselves as well as the means we have used to develop it.

I know you have heard about some differences within the United States intelligence community over the estimated numbers of Soviet systems. I would be surprised if there were not differences of opinion. They reflect independent analysis which helps keep us all alert.

The Soviet numbers for deployed and nondeployed forces are near the estimates of our intelligence community, allowing for the range of our uncertainties.

There are some differences in agency views on the number of nondeployed SS-20's. Estimates for nondeployed systems are, of course, inherently less certain. They vary by agency, reflecting the independent analysis I mentioned.

The treaty is designed to deal with possibilities such as the Soviets having more nondeployed SS-20's than we think they do. Our national technical means can verify Soviet compliance with the treaty's ban on INF flight testing, as I have already noted, as well as with the treaty's ban on INF infrastructure.

Both testing and infrastructure are essential to a militarily effective force. Thus, even if the Soviets did have some concealed SS-20's, their effectiveness would steadily atrophy, and covert systems are of no use for political intimidation.

What will we do if the Soviets do not comply with this treaty? The Soviet record of compliance with treaties is far from perfect. We have incorporated into the INF Treaty some lessons we learned the hard way.

For one thing, its terms are more detailed and precise than those of any of its predecessors. Its verification provisions, by increasing the likelihood of getting caught, clearly decrease the attractiveness of cheating. The structure of the reductions will give us a basis to assess Soviet compliance early on.

Thus, the Soviet Union will have to destroy all its shorter range missiles within 18 months. This front-end loading means that we will be able to see from the outset whether or not they are complying with treaty obligations of real military significance.

We will be destroying our shorter range systems in the same timeframe, but for us this will involve missiles in storage, not deployed systems.

The reductions in intermediate-range missiles will be asymmetrical. We will keep a substantial force of Pershing II's until well into the final months of reductions. This should provide an additional incentive for the Soviet Union to comply with the timetable it agreed to.

But no treaty in and of itself can fully guarantee with its terms. We must and will react vigorously to any questionable Soviet activities. If we detect an action that seems to be a violation, we will press the Soviets on it.

Besides regular diplomatic channels in Washington and Moscow, we will have a new compliance forum. Article 13 of the treaty establishes the Special Verification Commission, or SVC. At the SVC we will describe our concerns and press for a response.

The Soviets may be able to demonstrate that the action in question was not a violation. If they do not, this administration has shown its determination to take the actions necessary to safeguard our security. Faced with continuing Soviet refusal to live by the rules of SALT II, the President took an appropriate and proportional response.

The role of the Congress in this will remain essential. As I said to you 7 weeks ago, if the Soviets cheat on this the President must be able to count on Congress to help him take the measures necessary to preserve our security and that of our allies.

The last question is the fundamental one which I posed at the outset. Is this treaty in the security interest of the United States? I submit to you that the answer is "Yes." The more closely you have studied this treaty, the more I am sure you will have joined me in concluding that it deserves your full support.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much indeed, Mr. Secretary.

We will now move on the 10-minute rule. I will add that the meeting will not be interrupted by voting on Mrs. Glaspie because there has been objection raised to having a business meeting while the Senate is in session.

Mr. Secretary, some have suggested that the Senate condition its consent to ratification by attaching to it various provisions related to the INF Treaty or Soviet withdrawal from Afghanistan or an improvement in the human rights situation and other objectives that we all seek.

I was wondering what your own thought was in that regard?

Secretary SHULTZ. I see no purpose to be served by burdening this treaty with other matters. It seems to me it stands on its own feet.

As I said, I am speaking for the President very clearly on this. We hope that it will be given consent or ratification without any amendments or reservations.

The CHAIRMAN. Declarations, category 1, that would not cause you any great problem, though, would it?

Secretary SHULTZ. Well, I think it is the sort of thing that we should take up case by case and look at; but basically, we believe the treaty stands on its merits. It is self-contained and ought to be ratified and not be the vehicle for, in effect, trying to transact business that is not related to the treaty.

The CHAIRMAN. Personally, that is my own inclination, but that may be a minority view. We will see how it comes out.

Another question is with regard to the fact that we are destroying the vehicles and not the nuclear device. To my mind, the analogy is that a gun, cartridge, powder, and bullet are necessary to fire. If you get rid of the gun, the powder, the cartridge and the bullet are not of much value.

In this regard, as I understand it, the warheads will be put on the shelf and, possibly, reused. Of what value are they without being in a missile on a launcher?

Secretary SHULTZ. In order to have any military impact, they have to be delivered. So there has to be a delivery system.

Again, it gets back to this question of warhead. I understand Secretary Carlucci came in here with a mockup of some kind and took it apart for you. But basically, you have the reentry vehicle, and that will be destroyed. That is only after there will have been taken out of it the nuclear charge and, if the side chooses, the guidance system.

The nuclear charges go back into our inventory, as the Soviets. We are in no way prepared to have them involved in looking at that facility and having an understanding of how we deal with the nuclear materials, and probably they feel the same way about it. There is not an argument between us at all.

Furthermore, both sides are engaged in the continued use and production of this material. There is no way to distinguish it.

So, it is an agreed matter. It in no way diminishes the fact that what has been done in this treaty is eliminate the ability of either side to deliver a nuclear charge at the other through a system involved in the ranges identified in the treaty.

The CHAIRMAN. The main difference in verification between this treaty, the SALT II Treaty, or the ABM Treaty, et cetera, is the fact that this calls for an intrusive or onsite verification.

Are there any other major differences?

Secretary SHULTZ. Well, this calls for, of course, the use of national technical means as did previous treaties, but it does go beyond that. The previous treaties were basically limited to that.

So, we will by onsite inspection be able to verify the data that we have been given. There is much more data that has been present before.

Second, we will be able by onsite inspection to observe the destruction of what is to be eliminated.

Third, we will by onsite inspection be able to go to sites that we choose at random and which we can appear at in a very short space of time to see that the weapons system in some manner has not reappeared there.

Fourth, we will be able to go to the production facility and be able to assure ourselves that the weapons system is not continuing to be produced.

Then, for sites that have never had an SS-20 but which have the similarly patterned SS-25, a strategic weapon or longer range weapons, intercontinental weapon if you want to put it that way, we have a special enhanced national technical means to be able to observe periodically what goes on there.

Finally, we have a kind of a reverse twist on verification. It is not so much the means of verification as it is the nature of what is eliminated. When you go all the way to zero and you can by national technical means observe flight testing and flight testing is prohibited, then you have a kind of closure that what is not possible if you have still a finite number of systems left.

That was one of the arguments we advanced to the Soviet Unions in the last 6 or 8 months of this negotiation. That may have had something to do with persuading them that zero was better than 100 on each side because it does give you this final act of closure.

So, the verification regime, as I said in my statement this afternoon, is layered. It is not as though you rely on only one method. You rely on a whole series of things that reinforce each other and give you, by the time you add it all up, I think, a basis for being reasonably quite comfortable that we are going to see what goes on, and we are going to be able to verify.

The CHAIRMAN. As I understand it, it is correct to say that this treaty has the approval of, really, all elements of the Government, Defense, CIA, NSA, State, et cetera.

Have any individuals expressed disapproval with it or resigned over it?

Secretary SHULTZ. In terms of the agencies of the Government, they all support the treaty and have all taken part in developing the positions and so on. I am sure there are individuals who have different views here, there and elsewhere. There are millions of people in the Government, there have been some people who came and testified before you, such as General Rogers, who has his reservations about it.

So, it is not as though everybody thinks the same way about it.

The CHAIRMAN. But nobody has taken their objection to the extent of resigning over the issue, as far as you know?

Secretary SHULTZ. Not as far as I know. You do not know why people resign sometimes. Maybe they do not want to face up to testifying before the committee but they are afraid to say so. [Laughter.]

The CHAIRMAN. In article 6, the one that says neither party shall produce or flight test any intermediate-range missiles, et cetera, there is sort of a double negative.

Maybe one of you could explain to me what in simple English article 6 and, in particular, the "double negative" section means.

Secretary SHULTZ. I would ask Ambassador Glitman to respond to that, if I may.

Ambassador GLITMAN. Thank you, Mr. Chairman.

Article 6 essentially sets forth the basic prohibitions under the treaty, and that is what you find in the first paragraph. Essentially, no production or any flight testing of any intermediate-range missile or any stage of such a missile or any launcher of such a missile, or the same for shorter range missiles.

The second paragraph of article 6 deals with the situation created by the fact that the SS-25 has a first stage which is outwardly similar to but not interchangeable with the first stage of the SS-20.

It effectively states that it is possible to have a missile with a stage which is outwardly similar to a banned one but limited to that situation.

So, it provides sort of an exception for that. It is reciprocal. It is stated in a generic way so it does not say SS-25, but it would permit us as well, therefore, to use, for example, one of the stages of the Pershing missile if we chose to use it for a follow-on missile of our own.

The CHAIRMAN. Thank you. I will reread that and comprehend it more easily, I think.

My time is about to expire. I would turn to the ranking minority member, Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

Mr. Secretary, in January when you honored us with your visit, you stated that this INF Treaty "significantly complicates Soviet attack planning."

Now, how exactly does the treaty do that?

Secretary SHULTZ. Well, it eliminates a large number of weapons that they can use, some of which they could configure for other than nuclear weapons, for that matter. Under those circumstances, at least as of the moment when the eliminations take place, they have a targeting problem that they did not have before. So, that adds to the complication of their strategic planning.

Senator HELMS. Now, do the DCI and our intelligence community in general agree with you on this?

Secretary SHULTZ. Well, as far as I know, but you would want to ask them that question.

Senator HELMS. Subsequent to your visit, Henry Kissinger came up here and testified. He stated that the United States capacity to retaliate against Soviet aggression with nuclear weapons based in Europe is substantially reduced, if not eliminated, under this treaty.

Do you disagree with Henry Kissinger?

Secretary SHULTZ. By definition, our ability is reduced because we take out some weapons. The point is that the Soviet Union takes out four times as many weapons, so both sides reduce. They reduce more than we do.

So, his first statement is just a description of one side of the bargain without bothering with the other side of the bargain.

The other statement, what did he say, that we do not have a capacity, a nuclear capacity? That is just wrong. I do not believe that he said that. I cannot imagine that he said that, because he knows very well that after this treaty were to have taken effect over 4,000 nuclear warheads in Europe.

Roughly about half are so-called battlefield or short-range missiles of that kind launched from the ground or in other ways, and another half are launched from airplanes and have a very considerable range.

Then, of course, there are some 400 nuclear warheads on submarines that are dedicated to SACEUR that are ballistic missiles and have, of course, a big range.

Senator HELMS. Well, what is so often not mentioned or even considered in some of the public comment is if we pull out our Pershings, we have nothing with which to replace them. If the Soviets pull out the SS-20's, they have the SS-25 over there. The SS-25 is either long range or short range.

So, I think that may be one of the points Dr. Kissinger made.

Secretary SHULTZ. I would like to comment on that, Senator, if I may. The SS-25 is of intercontinental range.

Senator HELMS. But it is also capable of short range, Mr. Secretary.

Secretary SHULTZ. The Soviet strategic weapons have a capability of hitting targets in the various theaters where they have adversaries. So do our strategic weapons.

So, the fact that they have some that can hit targets all around, that is true; and so do we. So, as we go on here, it is important, we believe, in the administration to go on to the next step, which is a strategic arms treaty that will reduce these longer range weapons.

I might say that you mentioned in your opening statement something about "strategic" being an odd term. It is only by way of differentiating between weapons that have a range that allows them to go from one continent to the other from those that are shorter range. That is all that means.

Senator HELMS. On the SS-25, I was talking about the either/or, but Dr. Kissinger also testified, and let me see if I can quote him properly, that the fact that U.S. strategic forces are far away creates what he called a psychological and political imbalance in Europe which is magnified by the Soviet presence of superiority in conventional forces.

Do you agree with that?

Secretary SHULTZ. Well, our strategic forces, by definition, they are located outside of the continental land mass of Europe. Some of them are closer, however. They are on submarines that are closer up, and some of them are deployed in our geographic area.

On the other hand, our aircraft that carry nuclear weapons, our 2,000-plus nuclear weapons located in Europe are right there. So

they are much more intimate, and I might say, perhaps closer in than anything are the 300,000-plus troops that we have stationed in Europe. So we are very closely tied in.

I might say, Senator, that on this point of the sense of the solidarity of the alliance and the sense in which people are not only comfortable with but proud of this treaty was never more evident than in the meeting of the 16 heads of state of the NATO countries a couple of weeks ago, and it was for me a very moving and deep experience to be present, particularly on the second day when the various heads of state spoke extemporaneously, and the most striking and stirring performance was that of President Reagan who spoke as the last speaker, and who, as I was sitting beside him and he had the stack of notes that he generally has at meetings, and he was riffling through them, looked over at me with a twinkle in his eye, and he said, "George, I think I will wing it."

And he did. And it was a moving statement of the intimate connections between the members of the alliance and our total understanding of that and our commitment to move in solidarity together, and I think that everybody left the room with a very strong sense that we are going in the right direction, that we have solidarity, that we know what we are doing, and feeling quite comfortable about it.

Senator HELMS. Well, I am sure it was moving, but I have also heard from and talked with a great many of the guys who have the responsibility of trying to defend NATO, and their respective countries, and I can tell you that the euphoria is not there among those people. I am sure you get together with the political leaders and extol this and that and the other.

But let me get back to Dr. Kissinger. He made quite a point here that this treaty removes from West Germany only those missiles that can retaliate against the Soviet Union, and leaves only those short-range missiles which would explode on German territory.

And this fact, Dr. Kissinger said to us, will have a permanent impact upon West German politics, creating pressures for the total denuclearization of West Germany.

Was he right or wrong in his statement?

Secretary SHULTZ. He was wrong. There are seven countries—I believe I am correct in this—that have U.S. nuclear weapons stationed on their soil. Some reach quite some range. Others are of shorter range. The issue that he is referring to seems to have acquired the word "singularity," and that word was explicitly rejected in the NATO meeting by the people who spoke on behalf of Germany. People also spoke of the importance of keeping things up to date, was the phrase that was adopted, and Chancellor Kohl in particular spoke very powerfully, both here and there, and he personalized it, and he said "I have two sons in the German armed forces. Do you not think I want them to have the most up-to-date equipment that I can get for them?"

Senator HELMS. Well, that leads me to my final question on this subject.

Are you saying to me that you think that West Germany will agree to the deployment of modernized, short-range nuclear missiles, and if so, when?

Secretary SHULTZ. Well, it is a question of when the decision is appropriate to be made, and I personally have no doubt that when the time comes, the Germans will step up to it.

I can remember lots of discussion, I believe I can recall some in this committee in 1982 and early 1983 in which people were wringing their hands about whether or not the Europeans would actually deploy these missiles. That was the year in which the political leadership—and you in your earlier comment tended to disparage political leadership in favor of military leadership, but let me tell you that this was a political decision to deploy those missiles, and it was the Chancellor Kohls, the Margaret Thatchers, and so forth who had to stand up to that, and the leaders in Belgium and Holland and Italy who had to stand up to this decision and carry it through, and they did it. They did it without flinching.

As a matter of fact, they took it to their parliaments, and they got a vote, and it was when the parliament voted that the Soviets walked out of the negotiation.

But this was an expression of political will.

Now, how do I know what may be the case 4 or 5 years from now? All I can say is you have to go by the track record, and the track record seems to be that in the clutch the Germans come through, very much so.

And I will bet on them myself.

Senator HELMS. Thank you.

The CHAIRMAN. Thank you very much.

I would add that we welcome General Rowny, who has joined the Secretary.

Secretary SHULTZ. I asked the people who are here who testified before you to join me——

The CHAIRMAN. We appreciate it.

Secretary SHULTZ. In case somebody quotes one of them, I am not going to answer the quote. They are going to answer the quote.

The CHAIRMAN. Senator Cranston.

Senator CRANSTON. Thank you very much.

Mr. Secretary, we welcome you as always.

I wanted to say on another matter that is of mutual concern that I applaud you for your intellectual commitment and personal courage in pursuing peace in the Middle East. I know that is a very tough job, and you have been pursuing it with great dedication, and I applaud you for that.

Secretary SHULTZ. Thank you.

Senator CRANSTON. I want to associate myself with what Senator Adams and Senator Pell both said about your testimony and the testimony of other witnesses from the administration. I think you have been very accurate in your statements. I know of no effort to mislead. You nor others have not engaged in anything like that.

I think the only basis for the statements that the Senator from North Carolina made has been perhaps that some administration spokespeople, not in testimony before this committee, as far as I recall, had referred to reducing nuclear weapons, which was just carelessness in terminology. They were really talking about delivery vehicles.

I wanted to add that on Friday I and four other Senators, Simpson, Nunn, Cohen, and Levin, plus a few American scientists and

scholars, had a long session with General Secretary Gorbachev in the Kremlin. We talked about the INF Treaty and many other matters, and we told him that we expected the treaty to be approved for ratification by the Senate well in advance of the coming summit by a big vote and without any killer amendments. We indicated that the discussion here is really in process of shifting from INF to the START Treaty and conventional arms, and tried to get beyond talking about INF on the assumption that we are not going to have any great difficulty over this treaty.

I would like to ask you two questions that relate to, first, ground-launched Cruise missiles.

Could you expand on your statement on page 9 regarding the absence of U.S. or NATO plans to deploy conventional GLCM's? Was the conventional GLCM ban primarily to satisfy verification needs?

Secretary SHULTZ. It posed a very difficult verification problem which seems to be more difficult in the case of ground-launched Cruise missiles than air-launched Cruise missiles, although we see the same problem when it comes to the question of sea-launched Cruise missiles. So, there is a big verification problem, and maybe it could have been solved, and maybe not. We did not know how to, and nothing that the Soviets had to say gave us much insight.

Therefore, if they had not been prohibited, you would have had to assume, really, that any that were deployed were nuclear. And that would have, of course, been a violation right there.

Beyond that, we saw that we did not have any plan, we or in NATO, and this was gone over carefully with the Chiefs, for the deployment of ground-launched Cruise missiles of the range in the treaty. We knew that the Soviets were in the process of producing their version. And we also knew that these might well become not only nuclear or conventionally armed, but perhaps there would be chemical weapons on them. So, it seemed basically from the beginning, because of the verification issue, but then as we thought about it, just as much from the standpoint of something to our advantage, that the best answer was to prohibit them.

Senator CRANSTON. What would be the impact of an amendment on verifiability if an amendment was proposed to permit conventional GLCM's?

Secretary SHULTZ. Well, I do not know how anybody can—whoever proposed that amendment must have some insight into verification that we do not have. So, either you have that, or you then assume that any deployed, conventionally armed, declared conventionally armed are nuclear armed, and then you have got a violation of the treaty, and you have that problem.

Beyond that, there is the ancillary consideration of who is benefited by such an agreement, and I know there are people who feel that our military people are wrong in their assessment, and they have a different assessment. But at any rate, I have reported to you the military judgment which makes sense to me, and also the estimate of what the Soviets might have in store for us, and the balance of considerations that led the President to make the decision he made, and I think it is one of those questions of judgment that somebody has to make, and I guess that is one of the things you get to do when you are President is decide things like that.

He made that decision. I think it was a correct decision, and I believe the treaty is stronger for it.

Senator CRANSTON. Regarding data exchange, since the Soviets are destroying some SS-20's now, dismantling them, what means does the United States have of verifying the destruction of systems that the Soviets included in their original data exchange but which they may say have been destroyed before the treaty is ratified and new, intrusive, onsite inspection means were in place to watch the dismantling?

Secretary SHULTZ. I would like to ask Ambassador Glitman to respond to that question.

As you know, Senator, we will have another complete data exchange 30 days after entry into force of the treaty, and it is that data exchange that is, so to speak, the key controlling one, and things that were before will have to be reconciled with it. -

Ambassador GLITMAN. I think that is the fundamental answer. I would only add that we would anticipate having an opportunity to check with the Soviets, to ask them if any were destroyed, how were they destroyed, what have you done?

We ourselves are also carrying out some tests to make sure that we can destroy some of the missiles, and they are obviously going to be asking what happened to some of ours as well.

Senator CRANSTON. Regarding the statements made by Senator Helms at the outset of his statement today, I think most and perhaps all of those issues have been thoroughly dealt with and disposed of in the course of these hearings, but if you or any of the Ambassadors with you have any comments to make for the record on those statements, I invite you to make them.

Secretary SHULTZ. Thank you.

I made a few notes, but not careful enough quickly here to want to respond off the top of my head.

What I think we would do is take Senator Helms' opening statement and go through them and provide a response in writing to the committee as promptly as we can. We are working on these responses very hard. Then Ambassador Glitman reads them all and goes through them so that we are carefully coordinating.

Senator CRANSTON. That would be very helpful. Thank you very much.

[The information referred to appears in the appendix.]

The CHAIRMAN. Senator Lugar.

Senator LUGAR. Thank you very much, Mr. Chairman.

I just want to say a word of appreciation again to the Secretary for appearing today here. I admire your energy level, indefatigable in so many pursuits that are important to our country, and this treaty is, in my judgment, a magnificent achievement for the President, for you, and for Ambassador Glitman in particular, who has gone head to head for a long time in Geneva, and our arms control observer group has witnessed that and shared both his joys and frustrations over that period of time.

We appreciate so much Ambassador Rowny's long service in this respect, and before, and Ambassador Nitze has been a source of continuity for us here on the home front right throughout this period of time.

This has been a well-negotiated treaty, and your appearance today helps us once again to summarize the efforts that we have had.

Let me indicate also, Mr. Chairman, that I appreciate your attempt which has not come to fruition but which I hope will happen soon, to bring about the confirmation by this committee of an Ambassador to Iraq. That is a very important subject, and to have it delayed again and again seems to me to be highly unfortunate, and I simply appreciate your persistence, and I certainly want to cooperate with you to make certain we are represented around the world in a timely way.

So, Mr. Secretary, let me just ask about two questions that have been raised during these deliberations, and on which there may have been further conversation either in Geneva or with you and the Foreign Minister of the Soviet Union.

Back here there has been discussion of article 14, and you touched upon this in your testimony, said that it is clear really upon the face what is meant there, but obviously, and this has been particularly true in the Armed Services Committee, as I have read their record, there are a number of our colleagues who are not altogether certain about what is meant, and I simply wonder whether there have been any further conversations with Soviet negotiators or with others in terms of clarifying what they believe that it means, or whether you have any further comment on what we believe that it means.

I think specifically in terms of the fears that modernization might be inhibited in some way by application of article 14.

Secretary SHULTZ. Thank you, Senator.

I have here, and I might put into your record a 2½-page, single-spaced excerpt from Ambassador Glitman's testimony before the Senate Armed Services Committee on article 14. It gives the history, so to speak, the negotiating history of that article and shows how Ambassador Glitman managed to keep out of it the kind of ambiguous statement that could be used by the Soviet Union to argue, anyway, that things that we might want to do, such as the updating or modernization of our forces in Europe, should not proceed.

And with your permission, I would like to put it into the record. The CHAIRMAN. Without objection.

Secretary SHULTZ. I think it states very well exactly our position. [The information referred to appears in the appendix.]

Secretary SHULTZ. Now, I would like to go beyond that and pick up on the question of why my counterpart, Mr. Shevardnadze, has said. In the course of a speech that he made before the Supreme Soviet on February 9, Foreign Minister Shevardnadze briefly raised the issue of NATO modernization. He did not say that modernization of nontreaty limited systems would violate the treaty. He limited himself to saying, and this is a quote of the English translation of what he said, "Such a course of events would be at variance with the emerging tendency toward reducing nuclear arms and decreasing the nuclear threat."

Then he was asked a question about whether the INF Treaty gives the U.S.S.R. any "guarantee" against the possible NATO

"buildup" of nuclear weapons not covered by the treaty. That is what we are talking about here in most of these questions.

He said, I am again quoting the English translation of his comments, "The treaty itself does not give such a guarantee, but it creates good conditions to achieve progress and achieve the reduction of weapons in other fields, too."

In other words, I think we have heard from him that he fully understands the negotiating record and its implications, just as we have.

Senator LUGAR. Mr. Secretary, has there been any discussion between you and the Foreign Minister or our negotiators about the numbers of SS-20's? Has there been any further comment beyond the original list or the data that was furnished to us?

Secretary SHULTZ. You mean about the fact that there are variations in our intelligence estimates?

Senator LUGAR. Yes.

Secretary SHULTZ. Well, we have gotten their data. They represent their statement to us about the numbers of deployed and non-deployed SS-20's that they have, and it is for us to look at those data and judge them in the light of our own intelligence. And I believe it is fair to say that in all cases, with this one exception, their statement falls squarely within, sometimes they have given us a number a little higher than most intelligence estimates, but at any rate, it falls very well within it.

In the case of the nondeployed SS-20 missiles, their statement is consistent with two of the three intelligence groups that make estimates, and one of them has a much higher estimate, and I do not know how you—the estimates have a methodology which has been described I think in closed sessions so you can see from what it is derived and the assumptions on which it is based.

I believe the most important point, probably, in connection with that is the point that I made about flight testing, that if it is—if it should turn out to be the case that they do have more than they declared, and they wanted to maintain those as a force that could mean something, they would have to test, and if they tested, we would know it, and if they do not test, their force atrophies.

So, that is the sense in which, as I was saying, the existence of the zero option and the no-flight-testing prohibition gives us comfort on that.

But other than that, I do not know any way to respond.

Senator LUGAR. Mr. Secretary, the Senator from North Carolina mentioned today the possibility of SS-20's in Cuba.

Do you have any comment, or can you offer any clarification? The thought of missiles in Cuba has arisen in the Presidential campaign, and as I gather, there was denial on the part of the White House and the State Department that there were missiles in Cuba.

Can you clarify the record on that today?

Secretary SHULTZ. We have no basis for believing there are Soviet nuclear missiles in Cuba.

I suppose somebody could say there are nuclear missiles in you-name-it. And we would have no basis for saying, for believing that there are.

Senator LUGAR. Could you give us a progress report on the efforts to train Americans who will engage in onsite inspections on Soviet soil?

As I read the treaty, there are no specific provisions for how that is to be set up. But I gather there must be some agreements or some work on this issue with the Soviets. And could you describe at least the training methods on our side or what we know of the Soviet side, as they prepare for this verification?

Secretary SHULTZ. When we negotiated the verification protocol, inspection protocol, Ambassador Glitman went into a lot of detail about it.

Of course, this is something that nobody has done before. So, it may be that as time goes on, we will want to make alterations. So, provisions are provided to do that as the necessity may arise. And I would ask him to comment on that in a minute.

At the same time, we have organized ourselves, and the Defense Department has been assigned the task of executing the onsite inspection job that will have to be done. And so they are putting together, with the help of an interagency effort, to put together that group and provide them with the competence and the training they need to do the task. And that is something that is very much underway.

Maybe, Mike, you could comment on the detail of the protocol about the provisions made to be sure that they can go ahead and carry out their task.

Ambassador GLITMAN. Well, the protocols on inspection does list in great detail the nature of the inspection, the rights of the inspectors, and prohibitions on the inspectors. And again, in a balanced way for both sides.

We have indeed begun a training course for inspectors, and I spoke to the incoming class, as it were. Largely military people, men and women both. They are being trained both in terms of going to the Soviet Union and inspecting there, and also to be escort officers for Soviet inspectors coming here. That program is underway.

As the Secretary said, this is new. We are going to have to work at it carefully. We are preparing them as best as we can. We have already had some preliminary discussions with the Soviets.

They have been at Magna, UT, and we have gone to Votkinsk. The operation is underway, so to speak, getting used to one another, having a chance to see what that plant looks like, and vice versa.

So, we are starting in on it. And we expect to be ready, assuming the treaty is ratified, to have those people in the field, able to operate.

Senator LUGAR. Thank you very much.

The CHAIRMAN. Senator Pressler.

Senator PRESSLER. Thank you very much, Mr. Chairman. Thank you, Mr. Secretary, and other guests here today.

Let me ask you, Mr. Secretary, many years ago when I was a Member of the U.S. House of Representatives a Secretary of Defense came to me and said we needed these missiles to protect the lives of United States servicemen who are serving in Germany.

It was a funding debate. I guess we received a letter from one of the Secretaries of Defense. Now there has been much discussion about the need for NATO modernization following the INF Treaty to protect our troops.

Do you agree that we needed the missiles that we are now taking out in part to protect the lives of U.S. servicemen? Was that ever a valid argument?

Secretary SHULTZ. It was a very valid argument, and the principal reason we needed them was that the Soviet Union was in the process of deploying intermediate-range missiles at a fairly rapid rate. And we had to be able to counter that threat.

So NATO did that, and the result of it has been that through our readiness to deploy, your readiness I hope to vote for the production of those missiles so we could deploy them, has brought about this result, which is itself desirable.

Now, in terms of your comment about modernization following the INF Treaty, it is not a question of following the treaty. The decision about modernization was made at Montebello in 1983.

And the military sort of detailing out of it was in 1985. And the process of examining the NATO weaponry is a continuing one, as we seek always to keep it as up to date as we can keep it.

And so that is not something that is going on, because we have an INF Treaty. That is something that has been going on, and represents a continuity of effort, which obviously is needed.

Senator PRESSLER. I think it was in December there was a New York Times report that the President had assured our allies that we would take what steps are necessary in Europe.

I am always concerned about the cost of defense and the size of the deficit. That is why I am interested in these proposals or commitments for additional expenditures. If there is not a conventional or a chemical weapons treaty entered into at some point after this, or as an amendment to this treaty, in your judgment, will we have to increase the number of our troops or increase our spending on chemical weapons in Europe to keep the balance?

Secretary SHULTZ. I believe that the chemical weapons program that has been before the Congress and acted on by the Congress is essential and we should keep going with it.

And probably it is among the things that has caught people's attention, and has caused at least many to be ready to bargain with us about reducing and eliminating chemical weapons. You have the same principle here.

So, there is a program in being on chemical weapons, and we should keep it going. And if it is possible to work out a system for reducing, and in the end eliminating, them, well, they will be part of that process.

And so we envisage in a possible treaty a period of time in which the destruction would take place, and in the meantime it is important for us to have a deterrent capability too, in terms of chemical weapons.

That is a complex matter. Verification is far more difficult than, say, the INF Treaty. Beyond that, it will be necessary for a great many countries to take part in it for it to mean something.

And so it is going to be a long, hard negotiation ahead. But we are dedicated to it. But in the meantime, we should continue with the program we have.

As far as conventional weapons are concerned, I think we see that what we are trying to do in NATO is not so much to spend more money as it is to spend our money more wisely and more effectively.

And the modernization program that you referred to is more or less an implementation of that idea. Not the only implementation but an implementation.

Senator PRESSLER. What I expect will happen is that this treaty is going to be overwhelmingly approved, and I expect to be around the Senate at least until 1990, and maybe longer.

But I fully expect to be asked to vote for a substantial increase in conventional forces to offset the Soviets—we are really letting them keep their trump card, they have a substantial advantage over us in conventional forces—to keep our troops safe.

And that is going to be a very difficult decision in light of our budgetary deficit.

Secretary SHULTZ. Well, let me just interject, Senator, that, of course, the conventional force asymmetry was not created by the INF Treaty. That has existed for a long time. And we are correcting one asymmetry in this treaty.

We hope to be able to negotiate a conventional force treaty. And in the NATO meeting a couple of weeks ago, a statement was made giving NATO's way of approaching that subject.

In the meantime, however, it is important to maintain our defenses. And as an individual citizen of this country, I can tell you I think that we are not doing right in our defense budgeting. We should be spending considerably more.

And I feel for Frank Carlucci in having to do the things he is doing. He does not want to do them. But he is taking out of commission two airwings, many other things. And I think it is unwise. But we have to do it because we do not have the money.

Senator PRESSLER. What I am saying is that, at least in this Senator's experience, when the missiles were put in the argument was that we would do this rather than increase our conventional forces, to offset the Soviets. It would seem to me that the reverse of that argument would be that if we are going to take these missiles out, we are going to have to increase our conventional forces.

I do not think the American public fully understands that yet. But I think that is what we are going to be asked to do next year as a result of this treaty, and that is going to be very costly. I do not know if the American public will be willing to support that.

Secretary SHULTZ. I do not think one would make the argument, Senator, going back to 1979, and that probably was when you were referring to the proposal for the missiles when you were in the House.

I do not think you can counter deployment of things like the SS-20's with more conventional forces. You have to counter that with the nuclear deterrent, which we did successfully as an alliance. And so we brought it back down again.

Senator PRESSLER. Now, in your judgment, if Germany or any other nation were to implement the third zero, total denucleariza-

tion, do you think United States troops should be withdrawn from those countries?

Secretary SHULTZ. Well, I do not think they are going to do that. And the political leadership of Germany, and the other countries, opposed that. And have said so flatly.

Senator PRESSLER. Do you share the view of Secretary Carlucci that NATO deterrence would erode very considerably, if modernization is not implemented after this treaty?

Secretary SHULTZ. It is essential to implement it. And it is always essential to keep your forces up to date and strong. That is not something new.

And it is not a function of this treaty. It is something that we have to do. And I believe there is a pretty good head of steam behind doing that in NATO. That was one of the things that was a considerable focus of attention at the recent heads of state meeting.

Some people are more enthusiastic than others, of course. But I think the basic flavor of the meeting was strong, as is shown in the communiques. I read portions of them in my testimony.

Senator PRESSLER. I guess the basic point I am trying to make, Mr. Secretary, is that in my brief lifetime up here, the exact inverse of the argument was used to justify putting the missiles in.

It would seem that the reverse of that argument, if we are going to take them out, would be true in terms of the lives of U.S. troops.

But in any event, let me turn to another matter. There have been articles in the Washington Post by Walter Pincus and some in the New York Tribune by Peter Samuel. These were inserted in the record by my colleague, Senator Quayle, regarding how far off our intelligence estimates of Soviet missiles have been. Or at least in what we now think they have.

I do not know if you are familiar with these articles. One written by Walter Pincus, indicates that the United States may have miscounted some Soviet missiles, and so forth. And the one from the New York Tribune says, the United States intelligence community has told the Reagan administration there is only a 20-percent probability of detecting illegally deployed Soviet SS-20 missiles, even with the most modern satellite detection systems.

Now, some of the Soviet area is off limits to onsite inspection, and of course there we would have to depend, I guess, on mechanical inspection. I do not know if you are familiar with these articles.

But why have our intelligence estimates of the number of missiles been so far off?

Secretary SHULTZ. Well, first of all, they have not been so far off. They have been quite good.

And I think as we got these numbers and looked at them and compared them with the estimates of the various intelligence agencies that do that, we felt some comfort from that fact.

The one place where there is an estimate of one of the three estimating agencies with a number higher than the declared number, I have discussed that. And there are differences of view, sharp differences of view among the estimators about what the correct assumptions are underlying the estimate.

There is one other place where the Soviets declared a substantially higher number than our estimate. And I think the reason for

that is that this was a system they were early in the process of deploying. And we were following that.

And I do not think it is anything to get alarmed about in terms of the capabilities of our intelligence agencies. I believe those are the only two.

Senator PRESSLER. Well, the Post article by Pincus begins by saying United States intelligence agencies may have underestimated the number of 500-mile range SS-23 nuclear-armed missiles deployed by the Soviets in Eastern Europe, and totally missed the placement of Soviet ground-launched Cruise missiles in Latvia, if data provided by Moscow proves correct, and so forth.

Secretary SHULTZ. Well, I have given, I think, the explanation for that. There was more Soviet declared than we estimated. Maybe that gives you at least a little confidence in the Soviet data.

But in terms of why it was with that particular missile, our intelligence showed less, I think it was due to the fact that as something is in its initial stages you tend to probably not locate it quite as well as after it has been deployed for a little while.

The CHAIRMAN. Thank you very much.

Senator EVANS.

Senator EVANS. Thank you, Mr. Chairman. I wonder if people in similar but probably closed meetings in the Soviet Union are asking the same questions about whether we have given accurate estimates of all of the Tridents and other missiles that we have on our side, and whether we are holding anything back, and whether we are cheating. And I suppose they have the same suspicions about us as we do about them.

Secretary SHULTZ. I cannot imagine that they would be suspicious of us. [Laughter.]

There is no reason for it. We are an open book.

Senator EVANS. On page 8 of your testimony you mentioned Foreign Minister Shevardnadze's talk to the Supreme Soviet.

Do you have something that would be useful for our record that we could have on his statement as it relates to article 14?

Secretary SHULTZ. Yes. I read out excerpts. But perhaps I could get the full speech that he made, and the Q&A session, and mark the relevant portions.

Then you would have the full text, and you would be able to see the context and everything. And why do we not undertake to do that.

Senator EVANS. I think that would be helpful.

When we started negotiating the verification procedures, who finally said this is so intrusive as we are all willing to allow? Was it a joint decision? Or was it the Soviets?

Or did we get to the point where we said, "That's enough"?

Secretary SHULTZ. Well, I think that we wanted, and they wanted, to have a treaty that would provide the means to verify that it was being carried out.

And we feel, as I testified, and as they have testified similarly, that the means that are provided here give you that confidence. So, it is necessary to do additional things, given that fact.

There was a time when we were calling for what came to be known as "anyplace, anytime" inspection. That was at a time when

it seemed as though we might have 100 warheads allowed on each side. So, it would give us a different inspection problem.

And when the 100 dropped away and they finally accepted the President's initial proposal of zero, then we felt the need for that no longer existed. And, of course, it was additionally intrusive. But the determining factor was that it was not needed.

Now, when it comes to the strategic arms treaty, we are not going to have the comfort of the zero. And therefore, we will have to have some sort of provision like that, probably.

Senator EVANS. Did the suggestion for "anytime, anywhere" come with some objections from our defense-intelligence establishment?

In other words, it is a two-way street. If we demanded "anytime, anywhere" inspection, presumably the Soviets would do the same. Were we really prepared to agree to, or would we acquiesce to such verification?

Secretary SHULTZ. Of course, what we would prefer is that we can go anywhere, anytime in their territory and they cannot in ours. And we know that that is not possible.

So, you have to balance a judgment. And in this case, we hit the zero finally, and had the means we felt necessary to close this circle, it was not necessary. And so this was essentially, I think, a proposal of ours in the first place. And we did not think it was needed to pursue it.

But I do think when it comes to a strategic arms agreement, we are going to have to find some method like this. And then exactly what you say, it will come to pass. And I know the military in each country will be very loathe to have the kind of inspection that is needed.

But if we are going to be able to verify, when you have finite numbers of many systems, as you would in START, it is going to have to be some considerable intrusion.

Senator EVANS. Well, that is really the point I tried to make with this line of questioning.

It seems to me when I hear my colleagues talking about a lack of total and absolute verification, they do it with a one-sided view that somehow we will have complete freedom in the Soviet Union without giving the same kind of access in the United States.

And I suspect that they would be the ones to holler loudest, if the Soviets were to say the verification is insufficient and we want to move certain extra steps toward full verification.

It is a tough kind of balance to reach. But it is a two-way balance.

Secretary SHULTZ. It has got to be a two-way balance, and it is hard. But you pay something and you get something. And you have to make a judgment there.

Senator EVANS. Let me turn to retargeting. It has been said by some that, well, by giving up this class of weapons the Soviets can merely turn and retarget other weapons, as if it were simple to do on either side.

Would it be accurate to say that the current arsenal of all Soviet weapons intercontinental, et cetera, that are deployed, are targeted on something?

Secretary SHULTZ. Yes. There is no doubt about it.

Senator EVANS. And the Soviets presumably feel that each of those targets to one degree or another is an important target in their total nuclear strategy.

Secretary SHULTZ. No doubt. I think I should say, and of course they would have to tell you about their targeting. I can only speculate about it.

But no doubt there are some targets that are targeted redundantly, so to speak. That is, they are considered so important that they have more than one weapon pointed at it.

Senator EVANS. But to the degree that they would have to retarget, they have to make a decision as to what targets are no longer targeted or are not targeted so heavily.

It is a very complex game of trying to make decisions. It seems to me each decision would be made more difficult by reducing the number of deployed weapons that they would have.

Secretary SHULTZ. That is correct. At the same time, of course, nothing prevents them and they are continuing to produce strategic ballistic missile systems. And so if you just let time go on to infinity, why, they can produce more and more, we know that. And we can do the same.

Senator EVANS. Certainly. But at least under the INF Treaty, where a class of weapons has been eliminated and the number of weapons on their side to be eliminated is some three or four times as many as on our side, it is not just a simple matter of saying they can retarget. It does add a very substantial complexity to their strategic decisions.

Secretary SHULTZ. I think that is right. Ambassador Nitze I think has a comment.

Ambassador NITZE. I think there is no doubt about the fact that a strategic weapon, a long-range weapon like the SS-25, is more expensive per RV than the shorter range ones. For instance, the SS-20 has three RV's; the SS-25 has only one. So per RV it is at least three times as expensive.

So, to retarget one of the SS-25's to cover an SS-20 target is obviously not an economical thing to do. It is a very expensive, relatively expensive, thing to do. It can be done, but it is not what you do with any sense. So, that it does make the situation not only more complicated, but I think more expensive.

Secretary SHULTZ. Ambassador Glitman has another point he would like to make on this.

Ambassador GLITMAN. That is that of course we were dealing in INF with a very special class of weapons, whose main characteristic was that they were "aimed at our allies and not at us," and thus had very special political intimidation value which are not present with the strategic weapons.

So, that even if they were to retarget, we would not know that, and as far as we and our allies are concerned, we would both be held equally vulnerable to those strategic weapons, and thus the decoupling value of the INF missiles would not be present.

The political value of the INF missiles would be eliminated. With the elimination of those missiles, it is not present in the strategic weapons.

Senator EVANS. In a recent news story, they said that we have not detected Yankee class submarines off our own coast recently

and that they perhaps are being moved to provide part of that re-targeting. Is that a reasonable assumption, that part of the reason for the movement of those submarines is precisely to try to handle the re-targeting problem created by an INF Treaty?

Secretary SHULTZ. I am a little uneasy about commenting on that here.

Senator EVANS. As much as I have just said was in a news story.

Secretary SHULTZ. A news story is one thing.

Senator EVANS. You were saved by the bell, Mr. Secretary.

Secretary SHULTZ. Thank you. Thank you for the bell.

The CHAIRMAN. Thank you very much, Senator Evans.

Senator Sarbanes.

Senator SARBANES. Thank you, Mr. Chairman.

Mr. Secretary, I know you addressed this in your statement briefly, but there have been some assertions made that while, the NATO allies say publicly that they support this treaty, in private they indicate something different.

Now you and the President were just at the NATO meeting in Brussels—I take it that is the first summit meeting actually of NATO in quite some time, is it not?

Secretary SHULTZ. There was one in 1985, when the President went to Brussels following the Geneva summit meeting, and there was one in 1982 in Bonn. I think those are the two most recent before this.

Senator SARBANES. Well, given that you were at that summit, could you just address the question of what NATO members really think, and perhaps elaborate on it a bit?

Secretary SHULTZ. All of the heads of state and governments of the 16 countries spoke in favor of the INF Treaty, without any ambiguity or equivocation, all of them. And they all signed a communique that basically did the same thing and concluded, as I put in my testimony, with a statement of wishing it will be put into force as soon as possible.

So there was not any equivocation about it. That is not to say there are not people in Europe who have doubts about almost anything, but—and lots of head scratching goes on. But I think the support is uniform. It always seems to me, too, that you do have to put some store by what a political leader gets up and says publicly and says it repeatedly, and says it in concert with others and then says it alone and says it when he or she is campaigning.

And after a while, you have to believe maybe they believe it. If they do not believe, maybe they are going to be held to it.

Senator SARBANES. Well, of course people may want to rewrite the script, but that is not the situation we are confronted with. This treaty has been negotiated. The Senate now has to make a judgment as to whether to give its advice and consent to its ratification.

What would be the impact on NATO if the Senate were to refuse to do that? It is even possible that the Senate could fail to ratify the treaty with only a small minority of the Senators taking that position, since treaties require a two-thirds vote.

What would the impact of that be on NATO?

Secretary SHULTZ. I have hesitated to respond to that question, as you remember, in the initial testimony, because I believe the

treaty stands on its own feet. There are those who say this is a bad treaty, but NATO likes it, and to fail to ratify it would destroy NATO, or certainly disrupt it badly.

I do think that last statement is true, but that is not the basis upon which I advocate support for this treaty. I advocate support for it on the same basis as all our other NATO allies advocate it; namely that it is good for us. And I do not think that anybody in NATO wants to rewrite the script.

As a matter of fact, the leaders in NATO are rather proud of the script and proud of the fact that they jointly developed a program and it was carried through. And it is an interesting mixture, political mixture here.

I think there were two people in office at the NATO meeting in 1979 that are still there, as I recall somebody said. So there has been a lot of changing around, just as is the case in the United States. It was in a time when the President of the United States was a Democrat that the 1979 decision was made, and the members of his administration were present when that was approved in NATO, and that has been carried through under a Republican President.

And that same pattern is true in other countries in NATO where you have different political parties who come into the majority and have followed through and taken part in this. So, it has very broad support.

Senator SARBANES. There is a tendency, obviously, to focus on NATO reaction to the treaty. I wonder if you could take a moment or two to discuss with the committee how our allies in Asia and the Pacific view the treaty. What you are hearing from them?

Secretary SHULTZ. They are very strongly in support of the treaty and they feel that the United States and the NATO allies were both wise and considerate of our friends and allies in Asia in continuing to insist on a concept of a global ceiling and insisting on zero and finally getting zero.

So, whether you are talking about Japan or Korea or, for that matter, China or other countries, the Philippines, they like this treaty and they believe that a good job was done in negotiating it and they support it wholeheartedly.

Senator SARBANES. Actually, as I recall, General Rowny, we discussed that briefly in one of your appearances here. I think you in fact went out there as the President's emissary to discuss the issue on several occasions, is that correct?

General ROWNY. Yes, sir. If I may elaborate on what the Secretary said, at the President's and the Secretary of State's behest, I made some nine trips out during the INF process. And our allies in Asia were quite interested in the dialog and we discussed with them at every step what was happening.

They were not only supportive of what we were doing, but they took initiatives with the Soviets themselves, which I think paid off in a great way. You remember we had no real incentive for having the Soviets reduce in Asia. On the other hand, the fact that the Soviets realized that the pressure was on them from the Japanese, the Koreans, and even our Chinese friends and the Australians I think paid off.

So, this thing worked both ways. We got what we wanted, which was a global zero, which has greatly enhanced the verification, and our allies in Asia have benefited. And I think that we should thank our allies for taking the rather courageous stands and making these demarches toward the Soviet Union, some of which I observed personally.

So, while we talk about NATO, and of course that is the major focus of this, this is a global treaty and the Asian allies contributed a great deal.

Secretary SHULTZ. I should add that the global idea is important not only for our friends in Asia, as they got rid of missiles that were pointed at them, but the mobility of them means that if there were some of them that were located, say, in the Asian part of the Soviet Union, the people in Europe could not feel too comfortable because they could readily be moved.

They are mobile, and so globality as a concept was important for everybody, not only because of the direct implication in Asia, but also because of the mobility of the missile.

Senator SARBANES. Well, I think that is an important point. I have no doubt that some of those who are now questioning this treaty because it requires the total elimination of INF missiles, would also have questioned the treaty if we had agreed to the earlier proposal of leaving a certain number of missiles in Asia. Not only could the missiles left in Soviet Asia be reintroduced to the West at a later time, with all of the problems that would create for the European theater, but that would also have created greater uncertainty about verification, since with the global zero the presence of even a single INF missile would be a violation.

Under the earlier proposal there would have been a violation only if the missiles exceeded certain numbers, as I understand the previous negotiations.

Secretary SHULTZ. That is correct. I think you are absolutely right.

Senator SARBANES. I see my time is up. Thank you very much.

The CHAIRMAN. Thank you, Senator Sarbanes.

I would like to return to the previous question. We were talking about article 6, which is a technical question. It applies more to Ambassador Glitman, but returning to it, some critics contend that the double negative language in paragraph 2 of that article could be interpreted as permitting the Soviets to produce a missile stage interchangeable with one of the banned INF missiles.

Could you clarify that for the record, and can you pretty well assure the committee that the Soviets share your view on this point?

Ambassador GLITMAN. Thank you, Mr. Chairman. That question has come up in another committee. We do not believe that this double negative has that impact and, as I pointed out to one of the other Senators, in addition to the grammar, if one will just substitute the name of the missile for the generic you will see that it tracks very nicely as you do it mentally. And I will not read it out that way.

The CHAIRMAN. So, in other words, it does not permit the Soviets to produce the missile stage interchangeable with a banned INF missile?

Ambassador GLITMAN. If it did, it would be banned. If it were both outwardly similar and interchangeable, it would be a banned system.

Let me add that, in addition to discussing article 6, one should not ignore the fact that as a result of the second paragraph and what it represents; namely the way of dealing with the SS-20, SS-25, we also have included in article 11 the very special verification arrangements which also place additional limitations on the Soviets, in the sense that we have an opportunity in effect in verifying the nonproduction of SS-20's to verify—not to verify, but to be present and watching at the output of the final assembly, the final assembly plant for the ICBM SS-25.

The CHAIRMAN. Then we can understand that it does not permit the Soviets to produce a missile stage interchangeable with an INF missile?

Ambassador GLITMAN. It does not.

The CHAIRMAN. Thank you very much.

And do the Soviets share your view on this?

Ambassador GLITMAN. I am sure they do. We had a long discussion on this. We went over it with them. They recognize and understand fully that they have this one possibility, and it is spelled out in this generic way here in the treaty, but that is it.

The CHAIRMAN. Thank you very much.

Now, Mr. Secretary, in your testimony you stated that the treaty is designed to deal with possibilities such as the Soviets having more SS-20's than we think they do.

Secretary SHULTZ. More nondeployed, I think I said. I think we feel very confident in our ability to locate any deployed missile.

The CHAIRMAN. Well, in the START agreement being discussed in Geneva, there will be no ban on flight testing. Does that mean that hidden, nondeployed missiles would have greater military significance under a START regime?

Secretary SHULTZ. I think yes, it is true that the START verification problem is going to make the INF verification look like child's play. It is very difficult. Nobody doubts it, and so we are working very hard on it.

And as Senator Evans brought out in his question, it is going to mean a lot more intrusive measures. And these are going to have them squirming and they are going to have us squirming, too, as we consider their implications.

The CHAIRMAN. The point is being made that the nuclear devices will not be destroyed. They will just be removed and put on a shelf somewhere or maybe put in a new weapon.

First, is that a correct statement?

Secretary SHULTZ. Broadly speaking, yes.

The CHAIRMAN. Thank you.

Then will these nuclear devices or this material remain in usable form? Is there a possibility eventually of their being taken apart, with the fissionable material being taken out? Could the material be separated into component parts?

Secretary SHULTZ. Well, I do not feel that I have the expertise necessary to go into that detail. But as I understand it, the material could be—it could be, so to speak, disassembled and reassembled

in a form in which you would use any fissionable material that you were making a weapon out of.

It is the raw material. It is there.

The CHAIRMAN. Could it be used for peaceful purposes in a nuclear reactor?

Secretary SHULTZ. I think that bringing it down in enrichment is difficult. But again, I am not enough of an expert on that to feel that I should answer the question. Maybe there is somebody else here or we should make a response for the record on that.

[The material referred to follows:]

Question. Could it be used for peaceful purposes, used in a nuclear reactor?

Answer. Nuclear material recovered from the weapons could technically be used for peaceful purposes, such as nuclear power reactors, but would require some processing to be made suitable. The US uses certain types of highly enriched uranium in some civilian nuclear electricity generating reactors. However, the regular use of plutonium in US civilian power reactors has been under policy review for several years because of the implications for non-proliferation and anti-terrorism policy objectives. Finally, for national security reasons, we would not want the Soviets to observe our removing the warhead material or any recovery operation performed.

The CHAIRMAN. The strategic weapons treaty, START, is between the Soviet Union and the United States, the two superpowers. But, in the next stage after that, assuming we get there, do you think that that stage will involve other nuclear powers participating in the negotiations? And when do you see that event occurring?

Secretary SHULTZ. Well, each of the other three principal nuclear powers—Great Britain, France, and China—have made varying statements that are to the effect that there might be a time when they take part and their systems would be discussed, but they are not ready to say when that time is.

But certainly, it would not be before the kind of step represented in the strategic arms cuts that are being discussed now take place. So, they have all kind of hedged their bets, but at the same time recognized that if it is going to be so, that the United States and the Soviet Union start going much lower than in our strategic arms agreement as is now being laid out, that others are going to have to get in the game, too. Otherwise we will not do it.

The CHAIRMAN. And then the next stage after that, of course, will be mandatory.

Secretary SHULTZ. Well, I think as I say, people have set out positions that give them elbow room. And they have all stated this in a somewhat different way. But I think if you just look at the situation, by the time we get down to 4,900 ballistic missiles on each side and you count up those that Britain, France, and China have, and you see numbers that are somewhere at least remotely near that ballpark, before you move some more you are going to want to know what they are going to do.

The CHAIRMAN. Those countries will have to own up to it. They should own up to it.

Secretary SHULTZ. The question of nonproliferation, of course, comes into play constantly. And whether there are additional countries with nuclear weapons is a question mark. If there is, the number that they have is very small.

But it has been interesting to me that in the first meeting I had with Foreign Minister Gromyko after I became Secretary of State, the one thing we were able to agree on was that nonproliferation,

nuclear nonproliferation, was an important subject to both of us and we ought to work on it.

And we did develop a little pattern of work that has turned out to be quite worthwhile, and it has continued since that time. And I think both we and the Soviets support the Nuclear Non-Proliferation Treaty and the regime that is put there, because obviously you want to keep the number of states with nuclear weapons down.

The CHAIRMAN. Thank you very much indeed.

Senator Helms.

Senator HELMS. Mr. Secretary, what is your definition of "eliminate"?

Secretary SHULTZ. After you get through, it is not there anymore.

Senator HELMS. Pardon?

Secretary SHULTZ. In terms of an SS-20, you will have a physical device capable of delivering a nuclear charge from where it is launched to where they are targetting it, that range; and after you get through with this process called "elimination" they will not have that capacity anymore.

That is struggling from Webster, but I do not know that I have made a good attempt.

Senator HELMS. Well, I struggled from Webster before and got so many definitions of "eliminate," and I just wanted to know which one you were using.

Secretary SHULTZ. I think from the standpoint of what we are getting at here, that is what we are getting at.

Senator HELMS. Let me say this, Mr. Secretary. I do not question your sincerity. I do not think you are any less sincere than the distinguished Secretary of State who came up here a decade ago and said that to give away the Panama Canal was going to be good for the United States. He was sincere.

Secretary SHULTZ. Is that a direct quote, "give away the Panama Canal"?

Senator HELMS. No. He was talking about the treaties. We can get into giveaway on this one if you like. I hope you do not object to those of us trying to be careful about this thing.

In any case, I am wondering why in the statement you made in Geneva you took such pains to say that the Soviet side will eliminate about 1,500 deployed INF warheads.

Why did you not say the whole ball of wax like you just said it? That is a small point.

I want to talk to you, if I may, about some legal concerns.

Article 13, paragraph 1B provides that the Special Verification Commission will be able to "agree upon such measures as may be necessary to improve the viability and the effectiveness of this treaty."

Now, it is not clear to me and maybe to others who have accepted this treaty from the outset, some of them before they even looked at it, how the U.S. representatives could do that unilaterally. Maybe you could clear that up.

Why would such improvements not be subject to submission to this Senate for approval?

Secretary SHULTZ. I would like to ask Ambassador Glitman to give you the negotiating background for why that is there and what it means.

Ambassador GLITMAN. Well, briefly, Senator, the answer to your question is there is no reason why it need not be brought to the Senate for approval if the measure which has been agreed upon between the United States and the Soviet Union at the executive branch level.

Senator HELMS. I think we may be getting somewhere. Go ahead.

Ambassador GLITMAN. All I am saying is if that measure were to change the substantive obligations of the treaty, then it would also require article 16, which is the amendment article, to take effect.

If it is a technical difference, and we have talked about that, I think, in one of the other committees, where you may want to change a measuring device, for example, or you may come up with a new means of communication which we did not foresee, that would be the sort of thing that could be done without requiring formal amendment.

But we also are aware of the Case act provisions, which require us to notify the Congress.

Senator HELMS. But do you not see the quagmire you are moving into? I was going to bring up article 16, which talks about substantive amendments.

The question came to my mind, Who is going to determine whether a modification is merely a technical improvement or a substantive change? Who will make that judgment?

Ambassador GLITMAN. I think we will want to cooperate with the Senate on that matter. That is why we would have to notify the Senate of any type of change.

In the case of an agreement that was a very technical change, we would want to come to this committee and the proper organs of this body, of this Senate, and let them know what we have in mind.

Senator HELMS. Well, Mr. Chairman, that is encouraging, because if I understand the distinguished Ambassador, he is saying that the Senate will be kept informed about the procedures within the Special Verification Commission.

Is that correct?

Ambassador GLITMAN. Well, I am talking about this particular activity.

Now, with regard to the SVC, I think that will be handled in much the same way as we have similar—

Senator HELMS. Let me be more specific than apparently I have been.

Will U.S. charges of noncompliance be transmitted simultaneously to the Senate?

Ambassador GLITMAN. That is a question I would hold on and ask for legal advice.

[The information referred to follows:]

Question. Will U.S. changes of noncompliance be transmitted simultaneously to the Senate?

Answer. We do not plan such simultaneous transmission, but will keep the Congress appropriately informed of the status of any compliance discussions with the Soviets, in keeping with past practice. Additionally, we note that pursuant to section 1002 of Public Law 99-145, the President submits annually to the Congress a report (in both classified and unclassified versions) containing his findings "with re-

spect to the compliance of the Soviet Union with its arms control commitments * * * and any additional information necessary to keep the Congress currently informed."

Secretary SHULTZ. I have an instinct about that, but I would like to check very carefully on our negotiating record and give you a proper reply.

Senator HELMS. Fair enough.

Secretary SHULTZ. I think you can see the considerations involved. It might be that there might be some problem that we see and we want to discuss that. Quite conceivably, there is a proper answer for it, and so it is not a problem.

So, you do not want to create problems where there are none.

Senator HELMS. The last thing I want you to do is talk off the top of your head, because this is too sensitive a matter.

Secretary SHULTZ. I think on the previous question that you were pursuing, this treaty goes into a lot of great detail about exactly how you are going to verify something technically. It goes much further than anybody has ever done. Usually before it has been left that you are going to implement it, and that is something that people will do.

Now, since it goes into a lot of detail and since much of what is done is relatively new and we would expect to improve, in a sense, the technology here, it was necessary to give a basis upon which changes in what was specified could be made just as a technical matter, let alone something more substantial that obviously would have to come back to the Senate.

Senator HELMS. Well, you can drop us a note about that.

Ambassador GLITMAN. If I might just add, there is indeed some precedent for this, and there are a number of them in recent years for such procedures in treaties ratified by the United States, particularly with respect to environmental and maritime treaties with technical annexes which may require rapid technical updating.

The Protocol of 1978 relating to pollution from ships, Safety of Life at Sea Convention, and the 1985 treaty with Canada concerning Pacific salmon are all treaties which have protocols with similar arrangements.

Senator HELMS. But you understand what I am driving at is who determines what is a substantive violation and a technical violation? This is what has gotten us into the morass early on with a lot of people, including some in the Senate defending the Soviet Union who said, "Well, we violate the treaty, too." Well, I have not had any confirmation of that.

Let me move on. With respect to the memorandum of understanding, I would like to focus on article 9, paragraph 1, and article 10, paragraph 8. Now, these sections have to do with the procedures for recording changes in the data contained in the MOU.

By the way, Mr. Secretary, do we believe the Soviet claims that they have actually begun to destroy some of their missiles? Is that a fact?

Secretary SHULTZ. I believe that is a fact. There is no reason why they should not do that. There is nothing that prohibits them from doing that.

Senator HELMS. Well, there is a good explanation for it.

Ambassador GLITMAN. There is nothing that prohibits them from doing it.

Senator HELMS. I understand.

Secretary SHULTZ. Or us.

Senator HELMS. I just want to know if you believe that they really are dismantling the missiles.

Secretary SHULTZ. They are moving some. They have to be moved when they are to be eliminated into certain sites. It is apparent that they are going about the process of organizing themselves to do these things, and we see that.

We and they both, I think, have tested some missiles, and that is also a way of destroying them when you have them.

So, that has been going on on both sides. There is nothing in the treaty that prevents people from doing those normal activities until the treaty comes into force.

Senator HELMS. Well, if the chairman will indulge me, let me raise the specific point I was making.

Will the United States have the right of onsite inspections for missile support facilities and operating bases which were listed in the November 1 memorandum of understanding?

Ambassador GLITMAN. The answer is "Yes." It is listed in the November 1 MOU. We have a right to onsite inspection.

Senator HELMS. Now, I am talking about the facilities involving missiles which the Soviets may claim to have eliminated by the time the treaty enters into force.

Ambassador GLITMAN. If it is listed in the MOU and they claim it has been eliminated, we will have an opportunity to assure ourselves that it has been eliminated onsite, and we will be able for 13 years thereafter to go to that facility onsite as part of the annual quota.

Senator HELMS. You know, I have read this until I get too blind, and I cannot find that in this treaty.

Can you point to it?

Ambassador GLITMAN. Article 11 covers the inspection regime.

Senator HELMS. Well, that is sort of vague.

Ambassador GLITMAN. Paragraph 5 of article 11, "Each party shall have the right to conduct inspections pursuant to this paragraph for 13 years after entry into force of this treaty. Each party shall have the right to conduct 20 such inspections per calendar year during the first 3 years," and we go through all of that.

Then if you look at B, "inspections of former missile operating bases and former missile support facilities eliminated pursuant to paragraph 8 of article 10 of this treaty other than," et cetera, it is all there.

Senator HELMS. Well, my time is up but I need to ask this question because it is a compelling one.

If the Soviets subsequently refuse to let us inspect a site which they claim to have eliminated, would that be grounds for withdrawing from the treaty?

Ambassador GLITMAN. It would certainly be a violation of the treaty's requirements. Whether it is grounds for withdrawing is something that I think the President and the Senate of the day would want to examine.

But there is no question that they would be violating the requirements of the treaty.

I think any violation would be substantive in my mind. They are all serious.

Senator HELMS. Well, you refer to technical violations.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Helms.

Senator Sarbanes.

Senator SARBANES. I have nothing further at this point.

The CHAIRMAN. I have two questions. Senator Pressler, why not go ahead.

Senator PRESSLER. Thank you, Mr. Chairman.

Mr. Secretary, could you speculate a little bit on what we can expect regarding the subsequent negotiations? I think we can assume that this treaty is going to be approved by the Senate. I hope there are some amendments to it, but I think realistically the votes are there.

I think what a lot of people are really worried about is what is going to happen if President Reagan negotiates a longer range missile treaty and sort of leaves it, and leaves office and the Senate has to deal with it.

Under our constitutional system, it is true that the Senate has a constitutional responsibility, but it gets very awkward not to approve a treaty. The Senate is sort of over the barrel, so to speak, once a treaty has been negotiated because, as a practical matter, it is very embarrassing to an administration to have a treaty rejected. There is a lot of pressure to approve a treaty once it has been negotiated.

But I think everybody is worried that in the bigger treaty, the START Treaty, the long-range missile treaty, if we do not get the conventional weapons imbalance addressed, if we do not get the chemical weapons thing addressed and this White House negotiates another treaty in June, July, or August or at some point, that it may truly put us into a difficult position.

Could you give us a little preview of what you would expect once this INF Treaty is approved by the Senate? What do you think is going to happen the rest of this year in the arms control area?

Secretary SHULTZ. Well, I cannot say for sure because the road ahead is a very hard one, but in terms of where we stand on the three issues that you brought up—and I think you have correctly identified the agenda for ourselves and our allies—here is where we are.

On conventional arms, we in NATO gave the outlines of the position, in effect, that we will take when we get to that negotiation. We will not actually get to that negotiation until the mandate is approved in the Vienna meetings taking place as part of the CSCE process.

So, we have to agree on that mandate, and we also have to agree on an appropriate balance result in Vienna. That result, as we see it and our allies see it, must include something that is satisfactory in the field of human rights.

So, even if we were to agree on a satisfactory mandate, we still have to get satisfaction on the human rights field before that would proceed.

Therefore, I think it is not realistic to expect that conventional arms negotiations will complete themselves sometime this year. We will do well if we get them properly started this year.

In terms of chemical weapons, we have had a long period of negotiation. We tabled the draft treaty back in 1984, I think it was, or somewhere like that. There have been increasing statements of willingness to accept some of these stringent provisions in that treaty, particularly those calling for on-demand, onsite inspection.

Now, it is one thing to agree to that principle. It is another thing to spell it out exactly and precisely as we have been discussing here in connection with these nuclear treaties. So, there is a lot of work to be done on that.

Also, of course, it is absolutely necessary if that is to go ahead that a great many countries sign on to it. It is not even primarily a question of we and the Soviet Union. It is a question of all of the chemical weapons-capable states all over the world.

So, I do not know. We are dedicated to work hard on that, and I would not want to try to predict when that might be completed. Again, I would think that it takes a while.

In the case of strategic arms, which I think have the kind of reduction that the President called for back in 1982, in that speech he called for the number of strategic ballistic missiles to be reduced to 5,000, I believe, warheads.

In the agreement so far on strategic arms, we have agreement on the number 4,900; 6,000 warheads all together, 4,900 ballistic missile warheads.

So, what the President sought, at least in terms of that number and sort of the understructure of it, is all there. It has been agreed to already.

There are still some outstanding difficult issues, such as mobiles and SLCM's, but we have made a tremendous amount of headway. There are problems in counting rules that are difficult and complicated.

Then, as this hearing has brought out, the verification issues in strategic arms will be much more difficult to handle than in INF.

So, it is a very tough go, but both the President and the General Secretary have said that they want to try to get this completed and completed before summer, if possible. They have both said that they only want to complete a good treaty. They do not want to complete just a treaty. So, whether that is going to be possible or not, I do not know, but it is more within reach, I suppose is what I am getting at, than the other two are in the near term.

I am not saying it will be because it is so hard, but I believe that if it were achieved it would be very much in the security interest of the United States in and of itself.

Senator PRESSLER. I appreciate very much the broad, expansive answer you have given, and I agree with most of the things you have said, but you mentioned that in the area of human rights something would have to be satisfactory.

Is there a different standard for the human rights performance in the INF Treaty than there would be in the START Treaty?

The CHAIRMAN. Excuse me for interrupting. I am going to have to recess the committee and come back.

Senator PRESSLER. We have a vote?

The CHAIRMAN. Yes.

The committee is recessed. Do you want to ask the balance in writing?

Senator PRESSLER. Am I the last one with any questions?

Secretary SHULTZ. If I could just quickly say that the CSCE process has a unique aspect to it, in that it derives from the Helsinki Final Act that had this balance of objectives in it. That is a reason why we have this human rights balance.

The CHAIRMAN. We will recess, and the committee will be right back in about 8 minutes.

[A brief recess was taken.]

The CHAIRMAN. The committee will come to order.

I apologize to the Secretary and his colleagues for the delay. I now recognize Senator Pressler.

Senator PRESSLER. Mr. Secretary, thank you very much for staying on. I thought we had one or two more Senators, but I think I might be the last. So, I shall wrap this up very quickly.

Basically, in looking forward to the rest of the year, the obstacles you have cited, there probably will not be a major START agreement by the President, and——

Secretary SHULTZ. I did not say that. I said that the President and the General Secretary both have assured each other that they would very much want to do that, but they both recognize that there are great difficulties that have to be worked through and that neither one wants an agreement that is just an agreement. They only want a good agreement.

So, we are working very, very hard to bring it about if we can.

Senator PRESSLER. I think that is a fear of many Senators, that if this agreement is approved overwhelmingly without amendments that the administration might go forward very quickly with another major agreement concluded before the end of the year. That would leave us in a very difficult position regarding verification and conventional forces.

But in any event——

Secretary SHULTZ. I do not see that there is a problem as far as conventional forces are concerned. That is an important, different subject.

As far as verification is concerned, of course it is an essential part of the whole process. If there were a treaty approved sometime in late May or early June, then that provides many months before this Congress throws in the towel for consideration of something as important as that.

Senator PRESSLER. Mr. Secretary, are you familiar with the CIA's recently declassified study called the "Soviet Land-Based Mobile Missile Study"?

Secretary SHULTZ. That does not ring an immediate bell.

Senator PRESSLER. One of its conclusions, I am told, is that there is only a 20-percent probability of detecting illegally deployed Soviet SS-20 missiles.

If the CIA believes there is only a 20-percent chance of verifying the INF Treaty, how can we be certain about saying that there is no covert Soviet SS-20 missile force?

Secretary SHULTZ. I think it is a gross misstatement. I have not read the report, but it would be astonishing to me if the CIA said

any such thing as there is only a 20-percent chance of verifying this treaty. That is just not correct.

We believe that the verification provisions give you a very good basis for feeling confident about this treaty.

Now, as far as an estimate of nondeployed SS-20 missiles are concerned, there are, as has been brought out earlier in the hearing here, differences in the estimate among the differing estimating intelligence agencies.

There is one that has an estimate that is much higher than the others. That is the result of a different methodology that they have, and that has been gone into very thoroughly in the Intelligence Committee, as I understand it.

So, there is that possibility.

Now, what is the way of thinking out what that means? Well, what it means is that if you have a provision that says there may be no such missiles and that, therefore, there may be no flight testing of those missiles, and since it is true that if you do not test a weapons system, after a while your confidence in its reliability erodes badly and the missile system, in effect, becomes obsolete, then it follows that the flight testing prohibition gives us some confidence that even if it should turn out that the Soviet Union has more nondeployed missiles than they acknowledge, we have a way of dealing with it.

Now, that is not to say that I am accepting the high estimate. The various experts have looked at it, and they all feel very strongly about their respective estimates.

Senator PRESSLER. You mentioned flight testing. Even though flight testing is supposedly forbidden, is it not technically possible for the Soviets to use the elimination launches permitted under this treaty for flight testing purposes?

Secretary SHULTZ. That was considered in the negotiation. As a result, in order to avoid just this problem the use of firing off a missile as a means of eliminating it was restricted, I think, to the first 6 months after the treaty is in force. Thereafter, you cannot use that method of elimination.

Ambassador GLITMAN. Only 100.

Secretary SHULTZ. Only 100.

Senator PRESSLER. Another area of concern on verification is the fact that there are certain areas of our country that are off limits to the onsite inspectors and certain areas of their country that are off limits to the onsite inspectors. Part of that was at our insistence.

Secretary SHULTZ. I think I would put it the other way. There are certain specified places where onsite inspection is provided for, and that is the extent of it.

Senator PRESSLER. The converse of that is that there are certain areas that the onsite inspectors will not go.

Secretary SHULTZ. Most areas of the country they will not go to.

Senator PRESSLER. That is correct. So, I agree with what you are saying, that most areas of both countries they will not go to, but you said earlier here, our country is an open book, so to speak. Theirs is not.

Are we not at a substantial disadvantage there? I mean, you can go anyplace in the United States, as the Czechs did recently with that collapsible airplane, and take pictures and so forth.

But in the Soviet Union there are areas where the onsite inspectors do not go and are really off limits to everybody. Even the pictures of the Armenians who are demonstrating have to be smuggled out, so to speak.

Are we at a decided disadvantage in that factor? I think both of us agree that our society and our country are pretty much an open book to everybody.

Secretary SHULTZ. I think that strong verification is something that we need more than they do, in a sense just because our track record of compliance is excellent and because we are a much more open country. We debate everything in here, and what we do not debate gets leaked and so on.

So, it is very hard for anybody to imagine there are sustained secrets in this area here. So that is the case.

Now, of course, national technical means and photograph is very good, and it spots things. But again, in terms of this treaty and the question of the nondeployed missile varying estimates, it is the testing aspect that I think gives a sort of closure on this issue.

Senator PRESSLER. Mr. Secretary, if the Senate were to attach an amendment to this treaty that would say this treaty would not go into effect until an agreement had been reached to bring the conventional forces into line with a 1-to-1 ratio or something of that sort, would you still support the treaty?

Secretary SHULTZ. No, I would not.

Senator PRESSLER. You would not?

Secretary SHULTZ. No. I think that would be a terrible thing for the Senate to do. That would be an amendment designed to ditch the treaty, and I would not support any such amendment.

Senator PRESSLER. You would not support the amendment? Let us say the Senate passed such an amendment.

Secretary SHULTZ. I cannot imagine the Senate, with the good sense that it has, passing such an amendment.

Senator PRESSLER. Let us just imagine that the Senate did.

Secretary SHULTZ. I cannot imagine it. I do not have the capacity to imagine it. [Laughter.]

Senator PRESSLER. Well, if you really stretch your imagination. [Laughter.]

Secretary SHULTZ. You could do a lot of dumb things but nothing that dumb. [Laughter.]

Senator PRESSLER. In any event, you would withdraw your support for the treaty if it had an amendment regarding conventional arms?

Secretary SHULTZ. I think that an amendment of that kind would be a vote to, in effect, nullify the treaty. So, we would have to go back and fight again to get the amendment out so that the treaty could be operative.

Senator PRESSLER. Mr. Chairman, I have concluded my questions. I have some additional questions on verification for the record.

The CHAIRMAN. Thank you very much, Senator Pressler.

I had one question that came to me, and that is in connection with the testing of the ICBM's. Could you discuss the implications

of the Soviet Union testing a new missile at a range beyond 5,500 kilometers and proceeding to test it repeatedly below 5,500? Would this be a means of getting around the treaty? What would we do about it?

Secretary SHULTZ. Perhaps others can speak to this.

The SS-20 has a distinctive signature, so if it is tested we understand that. It is also not permissible to develop a missile that would be a substitute in those ranges.

In order to develop it, you would have to test it, so we would see that fact.

The CHAIRMAN. Well, if it was a longer range missile. That is my point. Having been tested once or twice at a longer range and it then was tested at a medium range, what would be our response?

Ambassador GLITMAN. Once it tests above 5,500 kilometers it would be considered a strategic weapon because it would have demonstrated strategic capability.

Both sides from time to time test strategic weapons at ranges below 5,500 kilometers. If you just imagine a different situation for a moment, you will see why this makes a lot of sense for us to do.

Let us imagine, without too much of a stretch, that we had a START Treaty and we did not have an INF Treaty. That puts us back to the days when the SALT Treaty existed. That same thing happened. The Soviets tested a missile at 5,500 kilometers and then continued to test it below 5,500 kilometers.

We would then say, "Oh, no. These INF are in a gray area. There is no treaty covering them, but you tested that thing into the SALT range." We would have captured that system in SALT. We would not let them argue that they only tested it once at above 5,500 kilometers and all of the rest of the time below and, therefore, it should not be captured.

You can see why the opposite applies here. The same rule applies. Once it is shown that it is strategic, it has to be put in the strategic zone, and it loses that special quality of an INF missile. Once it demonstrates it has the capability to go above 5,500 kilometers, then it is not "aimed" only at our allies. It can also be aimed at us.

The CHAIRMAN. So, under the general rule, the weapon is categorized on the basis of its maximum range, even when it does less than the maximum. That is immaterial. What counts is what it does at its maximum.

Thank you.

One other question that concerns me, and that is in connection with the Special Verification Commission.

Is there any thought of developing a core of inspectors of perhaps Americans, Soviets, or other nationalities—a corps with its own shoulder patch and its own esprit de corps? Or is it thought that each time they come into being there will be a new group that will again have to acquire the expert technical ability?

Secretary SHULTZ. I think it is basically up to each side to create its own inspection capability. As Ambassador Glitman brought out, that partly involves going to the Soviet Union and doing the various tasks involved in onsite inspection, and partly it is having the expertise necessary to be a proper escort for the Soviets when they are in our country making those inspections.

So, we are creating an organization that is in the Defense Department that will be staffed up to undertake those tasks, and that will be an ongoing responsibility.

The CHAIRMAN. Will they be in uniform? Will they be military people or civilians?

Ambassador GLITMAN. They will be mixed military and civilian, mostly military. I think it is pretty well understood between us and the Soviets that they will probably not carry out their inspections in uniform but in civilian clothes. They will probably have a badge for identification.

You asked about other nations. I would add that when the inspection takes place in a basing country, then a representative of that basing country would also form part of the escort team.

The CHAIRMAN. Will there be a continuity to the corps of inspectors so that they will develop an esprit de corps?

Ambassador GLITMAN. I would hope so. I think certainly it is going to be around for 13 years, so they will have to have that continuity.

The CHAIRMAN. I think that would be important to develop. Looking to the future, that could be the nucleus of an even larger force someday.

Thank you very, very much for being with us. I apologize for the delay.

The committee is in recess.

[Whereupon, at 4:50 p.m. the hearing was adjourned, to reconvene at 2:32 p.m., March 16, 1988.]

THE INF TREATY

WEDNESDAY, MARCH 16, 1988

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met at 2:32 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Sarbanes, Adams, and Pressler.

The CHAIRMAN. The Committee on Foreign Relations will come to order.

Today we have a very distinguished panel of nongovernmental witnesses to present the public opinion context in which the INF Treaty is placed.

The Center for Foreign Policy Development at Brown University, in Rhode Island, has joined the Public Agenda Foundation in conducting two projects. One is entitled "The Public, the Soviets, and Nuclear Arms," and the other is "Public Summit 88."

Here today to report to us on these projects are Dr. Howard Swearer, president of Brown University, and Daniel Yankelovich, president of the Public Agenda Foundation.

Cyrus Vance, the chairman of the Public Agenda Foundation, had planned to be with us today to give the leadoff presentation, but the recurrence of a back problem has prevented him from being here.

Tom Watson, a former Ambassador to the Soviet Union, is unable to be here.

In their absence, Dr. Swearer will make the opening statement.

We welcome you and Mr. Yankelovich very much, indeed.

Senator Sarbanes.

Senator SARBANES. Mr. Chairman, I will be very brief.

I am pleased to welcome our witnesses here today.

I had the opportunity to actually participate in the Public Summit 1988 program in Baltimore, which was sponsored jointly by the Public Agenda Foundation and the Brown Center for Foreign Policy Development. I became acquainted with the four "futures" then, and I am looking forward to hearing the results of your efforts across the country. We are very pleased to have you both here today.

The CHAIRMAN. Thank you.

Dr. Swearer.

STATEMENT OF HOWARD R. SWEARER, PRESIDENT, BROWN UNIVERSITY, PROVIDENCE, RI, AND CHAIRMAN OF THE PROJECT'S EXECUTIVE COMMITTEE

Dr. SWEARER. Mr. Chairman, Senator Sarbanes, it is a great pleasure to join with Dan Yankelovich in presenting the results of an ambitious 3-year study of American public views and attitudes toward the Soviet Union and nuclear arms, organized by the Public Agenda Foundation and the Center for Foreign Policy Development at Brown University.

We have entitled this joint project, "The Public, the Soviets, and Nuclear Arms," and we are focusing today on the results of the public education phase, which we have called "Public Summit 88."

Let me tell you first about the leadership of the project; second, about how the project was carried out; and, third, about some of the results that I find the most noteworthy.

In addition to ourselves, the project's executive committee, which I chair, includes Douglas Dillon, former Secretary of the Treasury and a founding member of the Committee on the Present Danger; William Hyland, former Deputy National Security Advisor to Presidents Ford and Carter, and currently editor of *Foreign Affairs*; Joe Jordan, former principal Deputy Assistant Secretary of Defense and president of the Center for Strategic and International Studies; Walter Massey, vice president of the University of Chicago; David Mathews, former Secretary of HEW and president of the Kettering Foundation; Senator Mac Mathias, a former member of this committee; Gen. Shy Meyer, former Army Chief of Staff; and Alice Rivlin, former Director of the Congressional Budget Office, and now director of the Economic Studies Program at the Brookings Institution.

So, as you can see, we have a strong and diverse group leading this project.

Several of our members had hoped to be here today and I request your approval, Mr. Chairman, for their statements to be placed in the record of this hearing.

The CHAIRMAN. Without objection.

Dr. SWEARER. Thank you. Those are from Joe Jordan, Ambassador Watson, Senator Mathias, and Secretary Vance.

[The prepared statements of Mr. Jordan, Ambassador Watson, and former Secretary Vance follow, and Senator Mathias may be found in the appendix.]

Dr. SWEARER. In addition to our executive committee, we have a strong and diverse national council of over 100 leading Americans, who have agreed to advise this project and to make sure that it is completely fair and unbiased. Our members include Governors, mayors, generals, former Cabinet officers, Members of Congress, business and labor leaders, educators and commentators, and national security and foreign policy experts across the political and the ideological spectrum.

Now, our project has just completed the second of three phases. Let me describe the first phase, which was the research phase, in which Brown and the Public Agenda surveyed over 40 representative focus groups of average Americans.

We met with 10 groups of community leaders across the Nation, many of whom are constituents of this committee. We also held over 20 workshops with defense and foreign policy experts in the United States and overseas.

Why did we do this? Because we were carrying on research on two tracks at the same time. One was to ascertain where the public stood on many of these issues and, at the same time, dealing with experts to make sure that we were being technically correct in the way we were phrasing the question.

There were a number of iterations. For about 1½ years, we had one draft after another, testing our propositions with the public to make sure that they understood, that they could respond, and, at the same time, testing it with the experts to make sure that they were fair, unbiased, and feasible. We think that we came up with a result that has been very, very successful for us.

As a result of this public and expert research, we discovered that Americans want to make informed choices about our long-term directions toward the Soviets and on nuclear issues. They want to debate where our country should go by, say, the year 2010, and how do we get from here to there.

They asked, How can we have a successful policy unless we know and act on what we want to achieve?

Well, as a result, we developed four alternative "futures," which provide quite different choices for the year 2010. As Senator Sarbanes indicated, it forced people to think through more carefully where they would like to see this country and our relationships in 2010.

Under Future 1, the United States would gain the upper hand over the Russians. Under Future 2, we would compete with the Soviet Union, but cooperate on nuclear issues. Under Future 3, we would cooperate with the Soviet Union to solve common problems across the board. Under Future 4, we would defend only North America, a kind of military isolationism.

These futures appear to be simple; indeed, that was the objective of the research and the hard work that went into preparing them. They are not, however, simplistic.

Each one has been very carefully crafted to reflect certain values as well as certain assumptions about the Soviet Union, about nuclear weapons, and about America's role. Also built into the futures are the arguments for and against feasibility.

The division of responsibility between Brown and the Public Agenda Foundation was as follows. Brown's center did the work with the experts to make sure that these propositions were feasible and technically correct, and the Public Agenda did the work with the public, to make sure that they were alternatives that the public could understand and react to.

We made a conscious effort to include in each future some elements that studies showed would strike a responsive chord among many people, and some other elements that would likely be seen by many as serious drawbacks. We did this in order to make sure these futures were effective devices for separating out and highlighting fundamentals that Americans can focus on, as well as to engage the interest of the public and to assure evenhandedness, which is essential for getting and keeping public attention.

We also focused on near-term policy choices, over the next 3 to 5 years, which would either enhance or impede the likely evolution of each of the futures. Would the American people support nuclear reductions, even at the cost of greater conventional weapons spending? Would we cooperate to reduce nuclear risks in the Third World, even over the wishes of close allies? Would we proceed with SDI, even if that meant no START agreement?

These are just examples of the kinds of questions that were posed.

In our second phase, the public education and debate phase, which we have just completed, we asked Americans in five cities—Baltimore, Chicago, Nashville, San Antonio, and Seattle—to wrestle with these long- and near-term choices. We asked them to consider the pros and cons, the costs, benefits, and tradeoffs. And, in a newly developed technique, we were able to obtain indepth responses from 963 representative Americans who, after completing an initial questionnaire, debated these issues for nearly 3 hours before completing a second questionnaire, which reflected their informed and considered judgment.

I am not going to say more about that new technique because Dan, in his testimony, will provide you more details.

We have now entered the third phase of our project, reporting our results to political leaders, policymakers, Presidential candidates, platform committees, and ultimately the next administration and the Congress.

We are excited about the results because we believe they offer a means to bridge the gap that clearly exists between the public and many experts on these important issues. We believe that the results provide an opportunity for enlightened political leadership, drawing from Americans' basic values and sense of long-term direction.

Dan will brief you on the full results, but I want to mention two sets of findings, and one overall implication from the findings that I find particularly noteworthy.

First, looking to the year 2010, we have found that the American people remain skeptical about Soviet intentions, but they are willing to open the door to a less antagonistic future relationship with the Soviet Union, if the Soviets will do their part.

Three out of four persons believe that we and the Russians, in our own respective self-interests, should cooperate together to solve global and Third World problems, like terrorism and nuclear proliferation, which—and I think this is important—they think represent a greater threat of nuclear war than a crisis in Europe or a surprise attack from the other superpower.

Second, looking to near-term issues, I find it interesting that three out of four Americans also favor reducing both sides' nuclear arsenals drastically, even if it means building up America's conventional strength. Almost as many, 70 percent, favored reaching agreements to prevent regional crises from escalating into global war, even if it means doing things that close U.S. allies oppose.

I also find it interesting that, despite the heavy support expressed for deep cuts in nuclear weapons, 56 percent were not willing to give up SDI to achieve these cuts. But, on the other hand, 59 percent would give up SDI, or share it with the Russians, if neces-

sary to create a closer working relationship between the two countries on common problems.

American opinion remains remarkably fluid and conflicted on the strategic defense initiative. But these numbers do suggest, I think, that Americans may tend to view any changes in SDI more in the context of changes in the overall United States-Soviet relationship, than in the context of the nuclear arms reductions.

Finally, we can find clues as to a possible "composite" future that Americans may come to support. To most of our respondents, the most appealing aspect from Future 1 is military security; from Future 2, it is reducing the risk of nuclear war; from Future 3, it is cautious cooperation to solve common problems; and from Future 4, it is greater effort by our allies to share burdens and pursue common goals.

That provides an outline, I believe, for effective, bipartisan leadership, both Republican and Democratic, that can lead our country into the next century with sustained public support.

[The prepared statement of Dr. Swearer may be found in the appendix.]

Dr. SWEARER. Mr. Chairman, if I might have your indulgence, we would like to show you two quite short video clips, which, I understand, is unusual for this committee. However, I think they demonstrate two things.

The first clip is just the first 5 minutes of a much longer video program which was shown in each of the cities. It was used as a part of this public campaign.

The second is a recording of how the campaigns went in the cities, the methodology used, the reactions of people in the media. This is really quite a unique effort, and I think we could probably demonstrate it visually better than we can if we just speak about it.

I would hope we could show the film clip.

The CHAIRMAN. This has been discussed and we have worked out the arrangements.

Please go ahead.

Dr. SWEARER. Thank you.

[A video presentation was made.]

Dr. SWEARER. Senator Sarbanes, Mr. Chairman, I would like now to ask Dan Yankelovich if he could explain and interpret the results of this major and unusual effort.

Senator SARBANES. We would be happy to hear from him.

The CHAIRMAN. Thank you.

Mr. Yankelovich.

STATEMENT OF DANIEL YANKELOVICH, PRESIDENT, PUBLIC AGENDA FOUNDATION

Mr. YANKELOVICH. Thank you.

Mr. Chairman, Senator Sarbanes, I am honored to be here.

My name is Daniel Yankelovich. I am the president of the Public Agenda Foundation.

The CHAIRMAN. I'm sorry. Could you pull the microphones a little closer.

Mr. YANKELOVICH. Certainly.

I hope this is better.

The Public Agenda Foundation is a nonprofit, nonpartisan research and education organization, founded by Cyrus Vance and myself, and I am also president of the Daniel Yankelovich Group, Inc.

I am here today to share the highlights of the study with you, and in my comments, I am also going to draw upon another project that my firm and the Public Agenda are involved with, called "ATS, Americans Talk Security," which is a series of national public opinion polls done during campaign 88. I will draw a few statistics from it to amplify the findings.

Before getting into the details of the research, I would like to tell you something about the background of the project, why we decided to focus on Americans' views about the future, and why we chose to conduct a particular form of research.

What I thought might be clearest and easiest for you to follow is a series of charts. Those are on the blue pages in your folders. If you would, follow along with me, and I will walk through these charts. They present some of the numbers and some of the other considerations in a graphic form, which I think will be easier to follow, than reading a text with a lot of numbers in it.

First, the project is focused most sharply on the future of United States-Soviet relations. It is a joint project of the Public Agenda and the Brown center, as Howard Swearer explained. In the 3-year project, we took the first 18 months to evolve the four futures, the second 18 months to test them. We tested them in two ways: Through the city campaigns in the four participating cities and through a form of panel research in those four cities, plus Chicago.

I would like to take one moment to explain why we felt it was so important to focus on the future. Most polling results focus on the present, and we wanted particularly to get Americans to be thoughtful about the future because of the findings of a study that the Brown center and the Public Agenda conducted in 1984.

In that study, it showed that the expert community, the arms control community, and the public were very sharply divided from one another, particularly on the issue of deterrence.

The idea of deterrence, mutually assured destruction, made a lot of sense to the expert community, who felt that it had saved the peace for 40 years. The public was very uncomfortable, and has been for years, with the deterrence policy because they are looking at it from a longer term point of view, and are fearful that that kind of balance of terror could break down with awesome consequences for the world and for their children and grandchildren.

We also found that the public is of two minds when they are thinking about the Soviet Union. When they are thinking about the present, they tend to be somewhat "hawkish," and to take the position, "Well, let's not let them get away with anything."

But, when they are thinking about the future, they really have a different hat on, and they think about the future with Soviet relations in a much less hawkish way, and seem to think more about a peaceful and cooperative future, and we wanted to try to see if the public could reconcile its own point of view and hold views that would be consistent and, in that way, after they thought through

this issue, would give a better guidance to you, who have the responsibility for shaping policy for the country.

I will skip the next chart because it simply summarizes what Howard Swearer said about the first 18 months and the process of evolving and testing concepts and the futures between the experts and the public.

On the next chart——

The CHAIRMAN. Excuse me for a question. Are you both reading your statement and going through the charts?

Mr. YANKELOVICH. I have ceased to read the statement.

The CHAIRMAN. I see. Then your statement will be inserted in the record.

Mr. YANKELOVICH. The statement is for the record, and I thought it would make it easier to follow the charts rather than to read a lot of statistics.

The CHAIRMAN. Thank you.

Mr. YANKELOVICH. The statement is for the record, Mr. Chairman.

The CHAIRMAN. It will be included.

Mr. YANKELOVICH. Thank you.

The Public Agenda has developed over the past 10 years and conducted a number of city campaigns, where the public is presented with some nonpartisan choices, and given material to television shows and discussions, to think through those choices, and the campaigns eventuate in a ballot, which people fill out.

These have been very interesting and successful campaigns, but they have always raised the question of how representative the people are who answer the ballots.

So, we felt that for this study, in addition to that city campaign format, which culminates in a ballot, we should also do something more scientific. In choosing a more scientific method, we had to choose between two methods: A conventional, public opinion poll, and the method we finally did choose, a panel study, a more expensive kind of study. We settled on the panel study rather than on the public opinion poll because we realized, first, that we had to have sessions of 3 hours with people, which is very difficult to do in a poll. Second, we wanted to present people with the four futures and the pros and cons of each in a very vivid and dramatic way, which we did in the video tape, the first video tape that you say, which is the first 5 minutes of a 20-minute film. You cannot do that in a poll.

Most importantly, we wanted to see what happened when people had a chance to discuss these options with one another and how they came out.

So, we went instead to a method of a panel, including 963 people in the various cities, and the format of the panel, each session, is shown in the following chart, chart III, where the 3 hours that were spent with the 963 people followed the standard format.

The first 45 minutes introduced the subject and administered a pretest, to see how people thought about this issue before they had a chance to come to grips with it, how they responded to the four choices without any kind of further information and education.

We then spent 1 hour and 40 minutes with them, showing them the video, giving them handouts with the pros and cons, and break-

ing up the larger groups into smaller groups of 16 for purposes of discussion.

Then we conducted a post-test, taking the remaining 35 minutes. It is the results of the post-test that we are going to share primarily with you.

But first, on the next chart, chart IV, this is a way of summarizing the difference between the pretest and the post-test. In both the pretest and the post-test, we asked our participants which futures they favored, and we found, not surprisingly, that they favored, in a sense, all of them.

That is a typical pattern before people come to grips with the subject, where there is a certain amount of wishful thinking and a desire to have incompatible goals, until you begin to struggle with tradeoffs.

We were somewhat surprised that, as a result of the discussions, the endorsement and enthusiasm of each of the four futures that we presented were reduced. That was a very striking finding, and what it reflects, in our view, is a realization that, as people come to grips with each of these futures, they see drawbacks to every one of them, and they are sobered by the reality of the difficult tradeoffs that each one represents. And yet, strikingly, the same pattern appears in both. Even though there is diminished enthusiasm, you will see that the profile is essentially the same, with the most people favoring a cooperative future, which we have called Future No. 3, followed by a future competition without nuclear weapons, and third the continuation of a cold war psychology, and fourth being a kind of military isolationism.

In our view, what is most important about this research is the reasons that people give for their choices.

It is in the reasons that one sees reflected the kinds of common-sense considerations that the public brings to bear.

It is significant in every one of the futures that people saw something they liked and something they disliked. In one of these charts, I will show you a composite future, where people picked and chose among the four, to form the ideal kind of policy that they would like to see.

On the first future, 76 percent ranked it as their first or second choice, and, when they were forced to choose among all four futures, it was the first choice of 46 percent of all of these people.

It is a pragmatic option, supposed by liberals and conservatives, Republicans and Democrats. We presented people with a series of arguments and we summarized the arguments that people found the most persuasive and those they found most persuasive against—that is, for and against.

These are listed in the chart. I would call, particularly under the most persuasive argument, four. The second one, the conviction that unless we change the basic relationship, even the most comprehensive arms agreements won't make us safe—that is the fundamental, underlying conviction of people, that you have to address the relationship and not just reduce arms.

On the other hand, people did have serious reservations. Probably the most serious was a concern about Soviet behavior in the Third World, and, even in the ATS study, it shows that there is a very favorable attitude in America about Mr. Gorbachev, a feeling

that he is trying to do new things, but, at the same time, a continued conviction that the Soviets have not changed their policies in the Third World, and they fear that they might, therefore, take advantage of this kind of cooperative future, to be exploited.

The second future was the first or second choice of almost an equal number—74 percent.

If you separate out first choice and second choice—and I am on chart VI—this was, as it were, everybody's favorite second choice, but only the first choice of 28 percent.

So, when you come down to first choice, the cooperative one wins out by far. It happened to be the second choice of a very large group of people, which is why the 74 percent number is as large as it is. But if you just look at first choices, this is really not the preferred one, because people are very uneasy about the idea of being able to cooperate and compete at the same time. It doesn't make sense to a lot of people.

Also, there is a feeling that we might be left with an imbalance of forces if we got rid of nuclear arms or radically reduced them, and a commonsense conviction that, unless we change the relationship, even the most comprehensive arms agreements won't make us safe.

But, on the other side, on the side of supporting this option, there is a feeling, a conviction, that the superpowers should slash their arsenals so that, if nuclear weapons were ever used, at least the world won't be destroyed.

Moving to the next chart, chart VII, where the future is a cold war future, this was ranked as first or second choice by 39 percent of all of our participants—the first choice by 24 percent and the second choice by 15 percent.

This 24 percent represents the people in the United States—and this comes out in countless surveys—a core of Americans who do have a cold war attitude toward the Soviet Union and have a deep conviction about it.

The most persuasive arguments in favor of that choice were that the United States has an obligation to oppose Soviet expansionism and defend freedom over the world as a fundamental American conviction.

On the other hand—and these were held by a larger number of people—the reason that this was the first choice of only one-quarter of the participants was the conviction that this approach, seeking superiority, is a formula for an endless arms race and that it would mean enormous defense spending, year after year, which is an issue that we are seeing growing in importance in this campaign year.

On the next chart, the isolationist future was ranked first by only 8 percent and second by 4 percent, for a total of 12 percent. The most persuasive argument in favor of it is a feeling that the allies should pay more for the cost of their own defense, but a reservation, a deep reservation, that it is U.S. strength that keeps the peace around the world and, therefore, we simply cannot move in the direction, however much we would like, of an isolationist future.

Mr. Chairman, there are more copies of this set of charts [indicating] if someone would bring some of them forward; that is, if you need additional copies.

I next would like to spend just a moment on giving you a profile which we find fascinating, of the public's composite future and finding something to like in each of the four. This is the way the public puts it together.

They would like to change the relationship with the Soviet Union in a fundamental way, work with the Soviets on common problems, but proceed with great caution. They believe that the two countries should slash their nuclear arsenals and should negotiate about the hotspots in the world, but, at the same time, keep an eye out for Soviet cheating and do not leave them with the world's largest army unchallenged.

There is a conviction that the United States should be strong militarily, but that we should try to do so in a way that avoids an arms race.

There is a conviction that the United States is and must be a world power, but a desire that the allies should share more of the burden.

Above all, there is a sense that, in looking toward more cooperation, we are truly talking about the future, not the present, and that we should proceed very gradually, step by step, to see how the Soviets respond.

I could sum it up by saying ~~that~~, in contrast to the 1970's, there is no widespread public sentiment for instant détente.

I remember the polls of the 1970's, which showed a remarkable change in public attitudes overnight, from one of great hostility to enormous receptivity for détente, which then led to a backlash, a souring of the mood, a deepening of the mistrust. That is not the case today.

The mistrust is there, but the mistrust is not seen as a reason for continuing the cold war. It is seen as a reason for going ahead very slowly and cautiously, but truly seeking to change the relationship in a fundamental way.

Finally, we thought it would be useful for you to get a profile of the areas of consensus and the areas where the public is still unresolved in its views.

We see one of the benefits of this project as a laying of a basis, as Howard Swearer said, for a possible bipartisan policy. Since the Vietnam war, we have lost a consensus in this country, and there may be in these numbers a basis for reconstituting a consensus.

It is in these areas that two-thirds or more of the country holds firm convictions about United States-Soviet relations.

The CHAIRMAN. Excuse me, but I must interrupt here. There is a rollcall vote going on. I must be gone.

We will recess the committee for about 10 minutes.

[A brief recess was taken.]

The CHAIRMAN. The committee will come to order.

We apologize for the rollcall votes. They are unpredictable.

I would like, incidentally, to acknowledge the presence of John Kalicki, who is here. We miss him on the Hill.

He looks very much at home and we are glad to have him on the Hill again. We hope he will return some day.

Also, I want to express my own regret at the absence of Tom Watson and Cy Vance, and hope that you will give them my affectionate respects when you next see them.

Have you pretty well wound up your testimony, Mr. Yankelovich?

Mr. YANKELOVICH. Well, I have about 3 or 4 minutes to go.

The CHAIRMAN. Fine. Carry on.

Mr. YANKELOVICH. I will wind it up very quickly, sir.

I was outlining the areas of consensus in the country, which we define as views that are held by more than two-thirds of the public and are held with some firmness. The areas of consensus, first on the Soviet and the nuclear threat, are the following ones: The Soviets want to reduce the risk of nuclear war, seeking military superiority as a formula for an endless arms race; that we should drastically reduce nuclear weapons to cut the risk of world destruction—

The CHAIRMAN. Would you pull the microphone closer, please.

Mr. YANKELOVICH [continuing]. And the view, the image of the Soviet leaders as people who may be ruthless, but are neither reckless or irrational.

There are widespread and deeply held convictions about the way a nuclear war might start. First of all, at a very high level, Americans do not see a nuclear war starting through a Soviet first strike or invasion as the most likely way. They do see as the most likely way that a nuclear war would start as either through some Third World conflict or terrorist activity, and there is a widespread desire to negotiate on these potential hotspots because of that conviction that that is where a nuclear war might begin.

A third consensus area relates to a desire for a less hostile relationship, a conviction that there are real problems facing the United States and the Soviet Union in common, such as proliferation, that transcend the conflicts we have with each other, and a view that, unless the fundamental relationship changes, even the most comprehensive arms agreements won't make us safe.

At the same time, there is a deep and widely held mistrust of the Soviet Union, a conviction that they probe, they look for weakness, they take advantage, when they can find any. And, finally, there is a consensus-like conviction that the allies must do more to share the burden of defense with America.

I would like to conclude by mentioning quickly three issues that, even after a prolonged and intense discussion over the 3-hour period, remained unresolved. SDI is one of these issues, where, on the one hand, there is widespread sentiment for continuing with it, but, on the other hand, there is a concern about its cost and a willingness to use it as a bargaining chip. People are of two minds about that whole matter.

Another unresolved issue is how to deal with communism in the Third World. There is a widespread feeling that we should come to the aid of anti-Communist groups and governments in the Third World, but reservations come in when these groups turn out not to be democratic. If it means supporting dictators, Americans get very nervous. If it means increasing our chances of our troops being involved, they get very nervous and there are ambivalent feelings about recognizing Cuba, wanting to do it on the one hand and, at

the same time, being hesitant to legitimize a Communist government in this hemisphere.

Finally is whether or not we should share our high technology with the Soviet Union under any conditions. That remains a subject of profound irresolution and ambivalence.

It is interesting to see these areas where people are not resolved, in contrast to those areas of consensus where they are.

That concludes my testimony. Thank you, Mr. Chairman.

[The prepared statement of Mr. Yankelovich maybe found in the appendix]

The CHAIRMAN. Thank you very much, indeed.

This is truly a very interesting study and of real value to us as we move along in the INF Treaty, or attempt to, as we try to determine the role of public opinion as well in a democracy.

I was wondering if you had asked ever the question of the people whether they felt that their leaders should follow their consciences, their hearts, and their minds if those disagreed with the results of the policies they advocated, if they disagreed with those that the public opinion poll showed was being favored.

Mr. YANKELOVICH. Howard, why don't you go ahead here.

Dr. SWEARER. Let me take a first crack at that.

What we hope this has produced is a sense of where Americans stand today if they are really challenged to think through these issues, where their values are, what their concerns are, and for political leaders like yourself and others, that there is the possibility of taking these elements here and building a consensus, so that we can regain the kind of general, broad-based consensus we had really before the Vietnam period, which then broke down.

It has been much more difficult, I think, for political leaders in this country to provide that kind of leadership because it was not sure where the public was standing on these wide mood shifts, every 4 to 8 years, which has been difficult in foreign policy, I think both for our own leadership and also for our allies.

Mr. YANKELOVICH. I would just add the comment that, on matters of foreign policy, there is a minority who hold such strong convictions that it doesn't matter to them what leadership takes if they disagree. The majority really have a more responsive attitude toward leadership.

But, if the leadership takes positions that make people uncomfortable, and there is no real consensus, they are ready to follow someone else if they come along later on, if it doesn't make commonsense to people.

Deterrence doesn't make commonsense, because there is a fear that it will break down sooner or later. The notion of overkill, the idea that we have enough nuclear weapons on both sides to destroy each other many times over, does not make sense to people. Cutting back a little bit and not focusing on the relationship itself doesn't make sense to people.

And, where you have these areas, it isn't that the public then opposes their leaders, but if leaders don't address these concerns, then, in effect, they are basing their policies on shifting sands.

The CHAIRMAN. Just taking one point which you raise, overkill, Sy Mellman, I believe, has taken the lead in pointing that out, maybe 15 or 18 years ago, maybe longer, and for all these years we

have known that we have tremendous overkill on each side. We are a democracy, and yet we have not been able to change that in any way.

Does that mean that public opinion has not been taken into account enough?

Mr. YANKELOVICH. I think on these issues of the relationship to the Soviet Union, public opinion has not been taken into account, I think, for a long time. This issue, because it is so technical, particularly on the nuclear arms race, has been the property of experts, and it is generally defined in a way that excludes people from considering it.

But there have been a number of leaders who have been going around the country back and forth saying it is not too complicated for the public, you have to make the effort to understand it, otherwise the experts are going to take you down the garden path.

What we see in our surveys is a growing conviction that that is true, a feeling by 70 percent or more that this issue is too important to leave to the experts, a desire to come to grips with it, but also a sense of humility in the face of its enormous complexity. But if you have a political leadership that takes positions which respond more to the public's commonsense, they are going to get the votes and they are going to get the support.

I think one of the reasons we wanted to make sure that this study surfaced enough choices is because what people have been saying in our studies is that they don't have enough choices. They are uneasy with the choices we have, and where are some choices that they can really support?

I think what we have tried to do here is to surface those choices, and I think that it has done so.

The CHAIRMAN. You just mentioned about war being too important to leave to the generals. I would comment also first upon that.

Mr. YANKELOVICH. Yes.

The CHAIRMAN. It is true also that maybe diplomacy is too important to leave to the experts. We don't quite know how to change that around.

Following up on your thought, many polls suggest that the American people don't trust the Soviet Union, and, at the same time, the public is disturbed that the United States does not seek arms control agreements with the Soviet Union.

How do you equate both of those, the distrust but still the wish to move ahead with arms control?

Dr. SWEARER. I think the findings of the study are very much in line with that. There is still a distrust of the Soviet Union. At the same time, there seems to be some inclination to want to try to probe for new kinds of relationships, but in a very sort of hard-headed, businesslike way.

I think we conclude that how this relationship will evolve in the years ahead will depend to a considerable degree on really the Russians showing that they are not going to engage in activities which will upset the American public.

Dan, you may want to contribute to that.

Mr. YANKELOVICH. Yes. I would like to add to it in this way.

There has been, under the Gorbachev leadership, a change in American attitudes over the past couple of years, and the attitude

of a couple of years ago might be characterized as the mistrust was there but there was a conviction that you really couldn't do business with the Soviet Union and that the reason we didn't have more arms agreements was that they would not play ball.

I think the effect of the Gorbachev initiatives in the past couple of years has been to convince not only the European public, but also the American public, that the Soviets really do want, are sincere in seeing nuclear arms as a threat to their own security, and so that there is a common interest in both countries, and that the mistrust is not enough to stop the search for agreements, but it is enough to make sure that verification in every conceivable way is pursued with great vigor and caution.

The CHAIRMAN. Amongst your questions, I cannot quite find one asking what the support is for the INF Treaty.

Did you have such a question?

Mr. YANKELOVICH. Our concern in this study was much more with the future. But we have been asking in other polls—the one I mentioned at the beginning, the American Stock Security Polls—has been asking about INF.

We find a very interesting pattern of results.

There is very widespread support for INF—over 70 percent of the public.

The CHAIRMAN. Excuse me, but that is not very high. Just 70 percent?

Mr. YANKELOVICH. My recollection—and I will check this—is that it is about 74 percent.

The CHAIRMAN. Well, I would hope we do better than that in the Senate. In other words, that would mean 26 Senators could vote against it, if the Senate were to reflect your poll.

Mr. YANKELOVICH. I think what is quite interesting are two points.

People do have reservations. They do want to curb it with reservations, particularly in relationship to verification and to the fear of Soviet cheating.

But what I find fascinating is that, when you ask people why they support INF, their view is that, on the one hand, it may not go very far in reducing arms, but it is a wonderful way to test the intentions of the Soviet Union.

If you take this long-term perspective of looking for a different relationship, a more cooperative relationship, and yet a mistrust of the Soviets in taking steps toward that, then INF is seen as precisely the kinds of tests, even more than Afghanistan, the kind of test that we should bring to bear to probe how sincere are the Soviets in wanting to go ahead in this fashion.

So, the people do regard it as a terrific test of that intent.

The CHAIRMAN. Do you think the public views the INF Treaty really as a steppingstone toward a more comprehensive START?

Mr. YANKELOVICH. Yes.

In fact, there are probably fewer reservations about INF than about something more far-reaching, precisely because the public's perception is that INF is in the interest both of the United States and of the Soviet Union, and that is why the Soviet Union is pursuing it, as well as why we are pursuing it.

It makes sense. It doesn't go very far. But it is a good test of intent.

Dr. SWEARER. There is some data, though, I believe, that indicate that if there is another step taken in the reduction of nuclear weapons, fairly large numbers think either NATO should increase its conventional capacities or the Soviet Union needs to decrease its conventional capacities in Europe.

So, there is a real concern there.

Mr. YANKELOVICH. Yes. At a level of 70 percent there is discomfort with the idea that we might be left in a position of inferiority with respect to conventional forces, and people divide on whether they think the solution is to raise the level on our part or to try to decrease it on both sides.

So, what is sure out there is that we should not be left with this discomfort, but that we should do something about it. But exactly what is not yet resolved.

The CHAIRMAN. I notice in table XII you say, "Would give us SDI to work with Soviets on common problems," that 60 percent or so agree; and then you say, "Would not give up SDI to negotiate deep nuclear arms cuts," almost the same thing, 60 percent.

Mr. YANKELOVICH. Yes.

The CHAIRMAN. How do you account for that?

Mr. YANKELOVICH. Well, we present this in order to illustrate the lack of resolution of the public. In other words, what we find in doing these kinds of surveys is that, when people have made up their mind, they are going to be consistent.

Polls are often accused of the fact that when you change the wording of the question, you change people's answer.

It is an interesting point about polling, that if people have made up their mind about something, it doesn't matter how you word the question—they come out with the same result. But if they haven't made up their mind, every time you change the wording, you are going to change the result.

Well, people just have not resolved their views about SDI, and we put this in precisely to show the lack of consistency that people have on that issue.

The CHAIRMAN. Thank you.

Senator Pressler.

Senator PRESSLER. I do not have any questions, but I want to commend the witnesses. I look forward to reading this.

I apologize for not being here. I serve on five committees, and I am spread rather thin, as we all are.

But I thank you very much.

The CHAIRMAN. Thank you very much.

I thank you, particularly, Dr. Swearer, for coming down from our mutual State and being here, and really being responsible for stimulating me to organize this hearing.

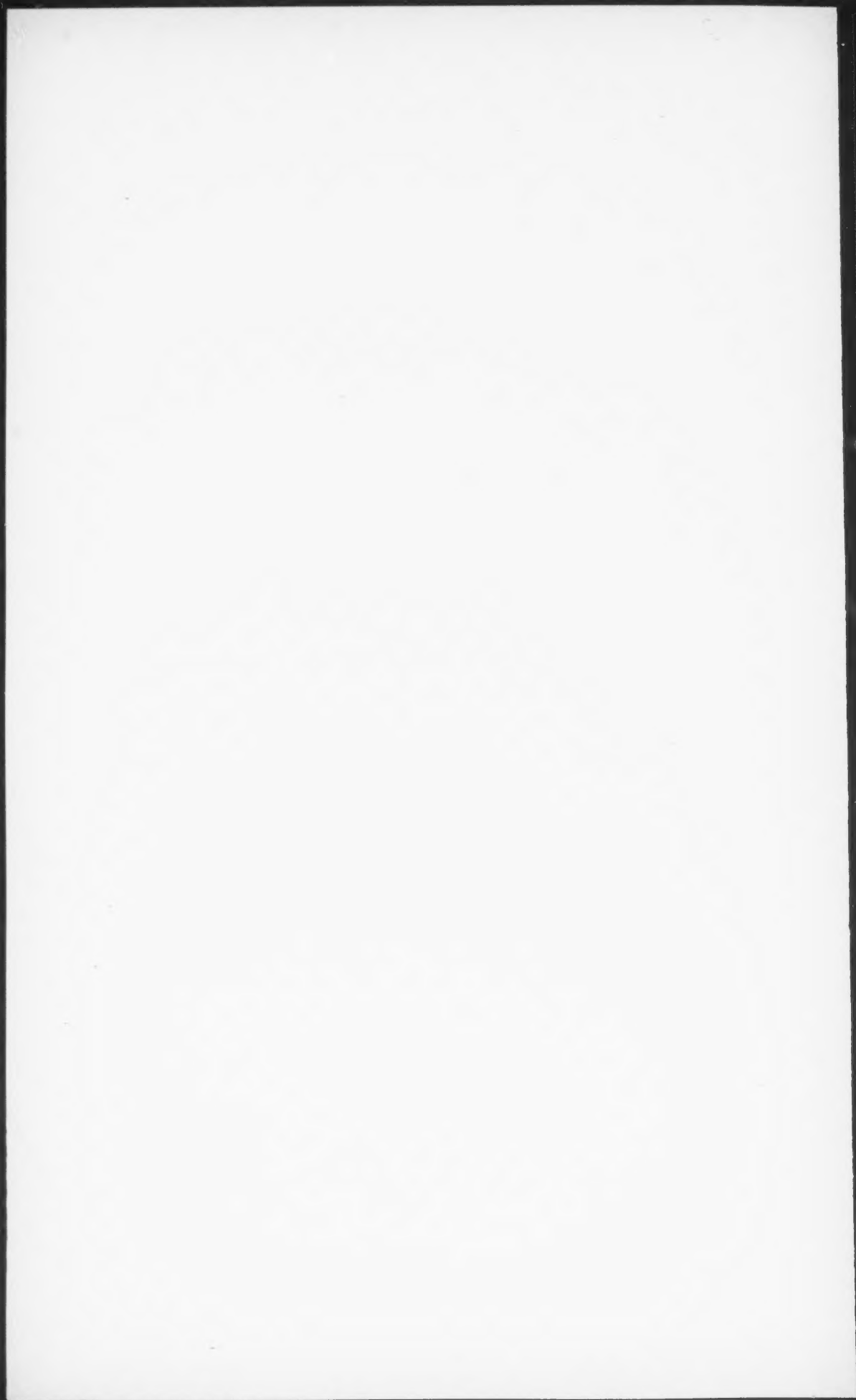
I wish you all well.

Dr. SWEARER. Thank you, Senator Pell. We appreciate the chance to be able to present our results of this project.

Mr. YANKELOVICH. Yes. Thank you, Mr. Chairman.

The CHAIRMAN. The committee is adjourned.

[Whereupon, at 3:55 p.m., the committee adjourned, to reconvene at 10:02, March 17, 1988.]



THE INF TREATY

THURSDAY, MARCH 17, 1988

U. S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:02 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Adams, and Helms.

The CHAIRMAN. The Committee on Foreign Relations will come to order.

Our committee is meeting today at the request of the ranking member to clarify various constitutional and legal issues which may affect the INF Treaty.

The first panel to be heard will be the administration witnesses, Ambassador Maynard Glitman, U.S. Negotiator for Intermediate Range Nuclear Forces; and Michael Matheson, Deputy Legal Adviser, Department of State.

Following them, the committee will hear from Dean David Forte from the Cleveland Marshall School of Law.

The ranking member.

Senator HELMS. Mr. Chairman, thank you very much.

The hearing this morning, Mr. Chairman, as you know, deals with two major constitutional and legal issues which have arisen as a result of the manner in which the proposed INF Treaty was drafted.

The first issue is whether the power given to Congress in Article IV, Section 3 of the Constitution to dispose of Government property is an exclusive power. That question was the subject of 11 days of hearings, the testimony of 30 witnesses, and an extensive report of the Committee on the Judiciary during consideration of the Panama Canal Treaties. It was also the subject of an inconclusive court case, *Carter v. Edwards*, in which two judges wrote no opinion, and one judge wrote a lengthy dissent, all with the result that the issue remained completely unresolved because the Supreme Court refused to take the case.

Obviously, this issue has arisen with full force again because this proposed treaty contemplates the destruction of taxpayer property without the approval of Congress.

The second issue involves a novel theory of treatymaking and treaty interpretation which postulates that an incomplete negotiating record supplied to the Senate, together with administration testimony given to the Senate prior to ratification, can serve as a

basis for supplying meaning to a treaty as confused and loophole ridden as the one before the committee now.

Now, this is a curious legal theory with the objective of obviating the duty of the Senate to correct flaws in treaties by amendment. It assumes that an administration witness, like the one before the committee today, can solve problems in legal drafting simply by stating in the record that what was really meant was this or that or some other construction.

Mr. Chairman, in all honesty and with respect and admiration for you, I doubt that this one day of hearing is going to do very much toward providing sufficient justice to these crucial questions of law and constitutional interpretation.

However, brief as this hearing is, and incomplete as it is likely to be, I do thank you for calling this hearing.

At a minimum, perhaps we can benefit from the work done in the past on the Panama Canal Treaties. With that possibility in mind, I ask consent that there be included as an appendix to these remarks a copy of the Judiciary Committee report on the property destruction question.

The CHAIRMAN. Without objection.

Senator HELMS. And along with that, Mr. Chairman, the testimony of a distinguished gentleman well known to all of us, whose name is Ronald Reagan, who testified on that subject a decade ago.

The CHAIRMAN. Without objection.

[The information referred to appears in the appendix.]

Senator HELMS. Now, the President's testimony is perhaps one of the best statements of the constitutional requirements, and he concluded that, and I quote him:

Careful examination of legal cases as well as historical precedent leads one to the inevitable conclusion that Congress does hold exclusive power over the disposal of property.

Now, Mr. Chairman, I was persuaded by the President's testimony then. I was there when he testified. But I shall nevertheless, of course, listen attentively to what I anticipate may be a diametrically opposed view from the State Department witness who has graced us with his presence today.

Mr. Chairman, I thank you for recognizing me.

The CHAIRMAN. Thank you very much.

Mr. Matheson, do you want to proceed, or would Mr. Glitman like to start out?

STATEMENT OF MICHAEL J. MATHESON, DEPUTY LEGAL ADVISER, DEPARTMENT OF STATE, ACCOMPANIED BY HON. MAYNARD GLITMAN, AMBASSADOR, INF TALKS

Mr. MATHESON. I would like to begin, if I might, to say that I am pleased to be here in Ambassador Glitman's good company. I have prepared a statement which addressed a series of other legal issues. Perhaps the best thing would be for me to submit that for the record, and then address briefly the two issues which Senator Helms has just raised.

The CHAIRMAN. Right. The statement you are talking about will be inserted in the record in full, and we would be glad to hear from you briefly on the other two issues.

Mr. MATHESON. I will try to be brief, and it may be that we will want to have further discussion of those issues.

Let me begin with the second issue, which is the question of the submission of the negotiating record by the administration for examination by the Senate.

Our intention in doing so, of course, was not to try to correct a treaty which has alleged loopholes and flaws. In fact, we believe that the treaty is complete and clear and speaks for itself. However, there were expressions of interest by a number of Senators——

Senator HELMS. Would you pull your microphone a little closer? I can scarcely hear you, Mr. Matheson.

Mr. MATHESON. Our intention in submitting the negotiating record to the Senate for examination by Senators was not to correct what we perceived to be loopholes or errors in the text. In fact, we thought that the text was clear and spoke for itself.

However, a number of Senators had expressed an interest in reviewing the negotiating record, and we felt that that was a legitimate request, and therefore we tried our best to assemble a meaningful record and to work out arrangements by which Senators could review it for themselves.

We have indeed assembled what we think is a complete record. We regard the negotiating record as the record of conversations between the United States and the Soviet Union with respect to the treaty. We, of course, did not include internal deliberative materials which count for nothing under international law, but we did present the Senate with what we believed was relevant under international law for the interpretation of the treaty; namely, the discourse between the two parties.

And again, we believe the treaty speaks for itself, but we were more than happy to present the record so that Senators could be assured that what we were telling them was the meaning of the treaty corresponded to what the parties understood.

We have, of course, provided more detailed analyses of certain issues with respect to the negotiating record in a classified form, and those could be discussed in some other forum—not here, of course, since the materials are classified.

But our intention was to give the Senate as much as it needed to understand the treaty within the confines of international law.

With respect to the first question raised by Senator Helms—the question of the scope of the property clause of the Constitution and how it related to the scope of the treaty clause—this is, as you mentioned, something which was addressed by the court of appeals in the *Edwards v. Carter* decision. I believe that decision did resolve the question, and I believe its result was that a self-executing treaty can dispose of U.S. Government property without the need for implementing legislation.

But in addition to that, I wanted to make a few suggestions about the way in which the INF situation compares to that in Panama. This is not a case, as was the case in Panama, where the treaty would authorize the transfer to another government of United States property, but rather, we are talking about the dismantlement or destruction of weapons systems—an activity which the Department of Defense frequently engages in and has engaged in over the years for various reasons, sometimes for arms control

purposes, sometimes for national policy purposes, sometimes for programmatic purposes.

The lawyers at the Department of Defense tell me that they regard DOD as having this authority as an inherent part of their general authority to conduct weapons systems programs and to use and deploy the Armed Forces of the United States, and it is obvious that DOD has relied upon that rationale for many years for various purposes. This is not an unusual case; it is something that they are fairly confident about.

At any rate, the treaty will be the law of the land, assuming that the Senate ratifies it, and the President will have both the authority and the obligation to carry out its terms, which would include the provisions on destruction of systems.

Perhaps I should stop at that, Mr. Chairman, and you may have questions on this or other aspects.

[The prepared statement of Mr. Matheson may be found in the appendix.]

The CHAIRMAN. I have none at this time.

I would defer to the ranking member at whose request we are holding this hearing.

Senator HELMS. Mr. Glitman, do you have anything to say?

Ambassador GLITMAN. No, I do not, Senator.

Senator HELMS. So you do not agree that the weight of the evidence is for the view that Congress holds exclusive power over the disposal of property.

Mr. MATHESON. Well, as I understand what—

Senator HELMS. Your analogy was a non sequitur in my book.

Mr. MATHESON. If I understand the court's opinion on that subject, it held that the property clause and the treaty clause were concurrent sources of authority and not exclusive, and that the property clause authorizes Congress to dispose of property but does not preclude that being done by treaty.

Senator HELMS. Well, I have got to say to you that this issue has not been resolved by *Edwards v. Carter*. The *Edwards* case was decided by a circuit court of appeals, the District of Columbia Circuit Court. A circuit court of appeals decision is considered to be evidence of law, but it is not deemed to be final. A distinguished constitutional law professor has assured me of this, Prof. Ronald Rotunda of the University of Illinois College of Law. He also sees an *Edwards* problem in the disposition of the missiles in Europe.

So, what you are saying is that you disagree with the President on this question.

Mr. MATHESON. Well, of course, I am aware of the statement made by then-Governor Reagan in 1977, I believe it was. I believe his statement said that he had reviewed the various cases up to that point and upon that basis had drawn this conclusion. I would have to note that, of course, the circuit court's decision followed after that.

Beyond that, I do not know if I should try to comment upon his views expressed at that time. But again—

Senator HELMS. I think there are a lot of things, sir, that the President does not know about this treaty. Frankly, I think he has been sold a bill of goods, as have a lot of other people.

But I was in the room, the date was September 8, 1977, when Ronald Reagan appeared and made his statement to which I alluded earlier.

Now, do you know whether this issue has ever been discussed with the President or not?

Mr. MATHESON. I do not know.

Senator HELMS. Does anybody in the State Department know?

Mr. MATHESON. I do not know whether anybody in the State Department knows.

Could I point out, though, Senator, what I tried to say when I first addressed the issue, and that is what we are dealing with here is not the kind of case as in Panama where there was a transfer of significant amounts of Government property to another government, but rather, an activity which DOD engages in constantly, has engaged in under separate authority, and is not at all unusual. It does dispose of, destroy, dismantle weapons systems which are no longer needed in the inventory, and it has always thought it had authority to do so, and I have no reason to doubt that.

Senator HELMS. Well, we shall have to disagree agreeably on that point. I think you have your feet planted firmly in thin air on it.

Let me ask this, and I think it is a fair request. I want to make it formally and publicly, that the State Department inquire of the President whether he has changed his view, whether he agrees with you now, even with—and I say this as politely as I know how—the rather specious distinction that you make.

I am also going to request the White House to have the President let this committee know and let me know in particular whether he feels that you are right about it or whether those of us who question it are right about it.

Mr. MATHESON. Fine.

Senator HELMS. You will ask the State Department, you will take the word back for them to look into this with the President.

Will you do that for me?

Mr. MATHESON. Well, I will of course refer your request to the White House, sir. I cannot say what they will do with it, but I will definitely do that.

[The information referred to follows:]

Senator Helms requested that the White House be asked whether the President agrees that the United States can legally comply with the provisions of the INF on elimination of INF systems without new implementing legislation? We have done so, and the position of the administration is as follows:

The President decided to transmit the INF Treaty to the Senate without any request for implementing legislation. That decision stands. No implementing legislation is necessary for the entry into force of the treaty following the granting by the Senate of advice and consent to ratification.

The Department of Defense already has the authority to eliminate weapons systems that it no longer wishes to keep in U.S. inventories, and has exercised this authority many times over the course of the years without any need for additional legislative authority.

Unlike the Panama Canal Treaty, the INF Treaty does not require the transfer of U.S. property to another government. Accordingly, the INF Treaty is distinguishable from the Panama situation in this respect. The 1977 testimony of then-Governor Reagan was directed specifically at the case of the transfer of United States property to the Panamanian Government.

With respect to the relationship of the property clause to the treaty clause, this issue was specifically addressed by the U.S. Court of Appeals for the D.C. Circuit in

the case of *Edwards v. Carter*, 580 F.2d 1055 (1978). The court held that the property clause was not an exclusive grant of power, but rather was concurrent with the treaty clause, and that U.S. property could therefore be disposed of either by the operation of a ratified treaty or by act of Congress. (The Supreme Court denied certiorari.) Accordingly, current judicial authority indicates that U.S. property may be disposed of by treaty without the need for implementing legislation. The 1977 testimony of then-Governor Reagan took place before this decision.

Senator HELMS. I did not ask you to say what they will do about it.

I have just been handed a memorandum here referring to your statement that the Department of Defense had power to destroy the missiles under the Surplus Property Act.

Is that what you said?

Mr. MATHESON. No, sir, I did not.

Senator HELMS. You did not say that.

Mr. MATHESON. No. What I said was that DOD lawyers have advised me that they believe they have authority inherent in the exercise of their control over weapons systems programs and in their use and deployment of U.S. forces, that the ability to dispose of these items when they are no longer needed for the inventory is inherent in their program authority.

I will say, though, Senator, that I cannot claim to be an expert on DOD internal statutes. If you would like, I could also at the same time ask DOD to provide for the record a more detailed explanation on that point.

Senator HELMS. Very well.

I would like them to do that, Mr. Chairman.

The CHAIRMAN. Thank you.

My understanding is you will relay that request.

Mr. MATHESON. Yes, certainly.

[The information referred to follows:]

Senator Helms requested that the Department of Defense be asked to provide an explanation of its existing authority to eliminate U.S. INF systems, as is required by the INF Treaty. DOD advises that:

The Department of Defense already has the authority, without any need for new legislation, to eliminate weapons systems it no longer wishes to retain. In fact, the United States has been eliminating missile and other weapons systems for many years without violating the Constitution.

Authority for such actions is inherent in the authority, direction, and control of the Secretary of the Defense over the Department of Defense (see, e.g., 10 U.S.C. 113(b)). This authority is specifically acknowledged in 10 U.S.C. 125(c), which provides only for notification to Congress prior to any substantial reduction or elimination of major weapons systems.

Authority for such actions is also found in the Federal Property and Administrative Services Act (40 U.S.C. 471 et seq.); 40 U.S.C. 483(h) specifically authorizes the destruction of property (such as these INF systems) which has no commercial value. Longstanding DOD policy is that weapons systems that are no longer needed by the Department will be demilitarized to the extent necessary (among other things) to preclude unauthorized use, to render dangerous items safe, and to protect the national interest; the demilitarization procedures prescribed for missiles call for their virtual destruction. (See Defense Demilitarization Manual, DOD 4160.21M-1, October 1981, p. 1, 4-8.)

These authorities are in addition to the effect under U.S. law of the treaty itself, which would constitute the law of the land when ratified, and which the President would have the right and duty to enforce.

The CHAIRMAN. I would also ask at this point that, without objection, a court decision on *Mickey Edwards v. James Earl Carter*, be inserted in the record.

[The information referred to may be found in the committee files or see *Edwards v. Carter*, Docket No. 78-1166, U.S. Court of Appeals, District of Columbia Circuit (580 F.2d 1055 (1978)).]

The CHAIRMAN. On this question of property, I remember during the war while I was acting quartermaster on a vessel, the question came up of the disposal of the American flag when it got real ragged from the wind. There were very strict instructions how we were to dispose of it as contrasted with anything else.

Senator HELMS. All right, Mr. Chairman. I have a few more points I want to raise along another line with Mr. Matheson.

The CHAIRMAN. All right.

Senator HELMS. The Soviet Foreign Minister, Mr. Shevardnadze, claimed during a recent trip to West Germany that article 14 prohibited United States modernization of existing missile weaponry, but on Monday of this week Secretary Shultz said that the Soviet Foreign Minister changed his position in a statement made before the Supreme Soviet on February 9.

Now, the English translations quoted by the Secretary of State were, in my judgment—and I want to be as charitable as possible—vague and ambiguous. The following sentence is particularly puzzling. "Such a course of events would be at variance with the emerging tendency toward reducing nuclear arms and decreasing the nuclear threat." You can make your own judgment, I guess each person will, as to the characterization of that statement.

It seems to me that article 14 is a beartrap, and that we are the intended prey, and if this ambiguity continues, are we going to be forced to consult the negotiating record after the treaty is ratified, and then to secure the agreement of the Soviets with our interpretation?

Mr. MATHESON. In a moment I am going to ask Ambassador Glitman to address this as he did the other day when you raised the issue with the Secretary.

I would only like to say that we regard the provision in the treaty as perfectly clear. It is a restatement of the obligation of treaty parties under current international law to comply with the obligations under a treaty, and not to undertake future inconsistent obligations.

I do not think there is any lack of clarity in that. However, we were perfectly willing to show the negotiating record under appropriate conditions to demonstrate that this is exactly what was the final result of the negotiations themselves, and I think Ambassador Glitman would like to address that.

Senator HELMS. Well, I hope the record is clear that I see this clause as one allowing the Soviets by way of interpretation to inhibit our weapons development or our assistance to our allies, and after the treaty is ratified, it will be too late to correct this error unless the Senate, in its wisdom, gets about it now.

Mr. MATHESON. Could I ask Ambassador Glitman to respond further?

Senator HELMS. Yes.

First of all, let me ask you to have the State Department furnish transcripts in English of the Shevardnadze comments quoted by Secretary Shultz, as well as all other statements made by Soviet

officials since the treaty was signed, both with regard to article 14, and to NATO's modernization plans.

Now, do I need to write a letter on that, or will you take care of that?

Mr. MATHESON. I will take care of that.

Senator HELMS. OK.

[The information referred to appears in the appendix.]

Senator HELMS. Mr. Ambassador.

Ambassador GLITMAN. Thank you very much, Senator.

Let me say that we were very conscious during the negotiations of the concern that you have just expressed, that the Soviets not use any part of this treaty to inhibit activities by NATO which would not be constrained by this treaty. And this was a major issue during the discussion and the negotiation of what has now become article 14.

If I may, I know Secretary Shultz will introduce into the record as a result of the meeting on Monday a statement that I have made on this subject, but I would, with your permission, be happy to go through it now so that you can get a picture now of this situation, and I hope it will lay at rest your concerns, for they were very much the concerns of the negotiators.

Article 14 reads as follows:

The parties shall comply with this treaty and shall not assume any international obligations or undertakings which would conflict with its provisions.

A review of the negotiating background provides a comprehensive response to the meaning of article 14. The Soviets sought up until the final days of the negotiations to insert into the treaty language which they hoped would serve as either a brake on United States-NATO cooperation, or at least as a basis for public accusations that we were not in compliance with the treaty. The United States resisted that effort. Our success can be measured by comparing the positions of the sides during negotiations with the final result.

First, a look at the relevant articles in the SALT II treaty is in order since they formed the basis of the Soviet position. Article XII of SALT II states, and I am quoting:

In order to ensure the viability and effectiveness of this treaty, each party undertakes not to circumvent the provisions of this treaty through any other state or states or in any other manner.

Article 13——

Senator HELMS. Could I interrupt you there?

Ambassador GLITMAN. Yes.

Senator HELMS. You are moving right into the point that I am trying to make. Now, you are saying, as I understand it, that the language in article 14 is similar to, if not identical to language used in similar fashion in other treaties, particular the NATO Treaty and the ABM Treaty, but the point is that neither of those two treaties uses the word or term "undertaking."

Now, how do you define the word "undertaking"?

Do you see what I mean?

Ambassador GLITMAN. I do indeed, Senator, and I want to come to that because, as you will see in my going through the record, that was one of the very last issues that we resolved in Geneva, to

ensure that that word was defined in the Russian language in the same way that we defined it in the English language.

Senator HELMS. Then maybe you could tell me how it is defined, both Russian and——

Ambassador GLITMAN. I can tell you right now. It is defined in a very formal way as an act, and we cited the examples to the Soviets as the Helsinki Final Act or as an act of Congress, not an action or an activity, which is what the Soviets sought to have the Russian language read, but that was what we were fighting against, again, bearing very much in mind the concerns that you expressed.

Senator HELMS. OK.

Ambassador GLITMAN. Now, Article XIII of the SALT Treaty states "Each party undertakes not to assume any international obligations which would conflict with this treaty."

Now, you can see, there can be no doubt that in comparing Article 14 of the INF Treaty with these two articles of the SALT II Treaty, the language of SALT II, article XII is totally absent from Article 14 of the INF Treaty. That is the language about noncircumvention through any other state or states or in any other manner. That is not in the INF Treaty.

Thus, it cannot be argued that what was covered by Article XII of SALT II, noncircumvention through any other state or states or in any other manner, is covered by Article 14 of the INF Treaty which is clearly more closely allied to Article XIII of the SALT II Treaty.

Moreover, it equally follows that Articles XII and XIII of the SALT II Treaty could not mean the same thing.

Finally, when the Soviets sought wrongly to argue that United States deployments of Pershings and ground-launched Cruise missiles were in violation of the SALT II Treaty, it was article XII they cited, and not article XIII.

The Soviet position in the INF talks went even beyond the broad language of Article XII of SALT II. It provided that each party undertakes not to circumvent the provisions of the treaty in any manner, and specified this included a prohibition on the transfer of intermediate-range missiles, launchers, components of such missiles, or technical documentation related to such missiles or launchers.

In a separate paragraph, the Soviets repeated the language of SALT II, article XIII.

The United States strongly opposed the noncircumvention language as totally unacceptable because of its negative effects on U.S. cooperation with third countries. As for the second paragraph, we noted it was a statement of international law, and thus, unnecessary.

The Soviets insisted upon the need for noncircumvention language. As for paragraph 2, they said in effect that it was a restatement of and fully consistent with international law, but argued it would be useful to restate that law in the treaty proper.

The United States firmly resisted the Soviet approach, and in time, the Soviets dropped the specific prohibitions against transfer of missiles, launchers, components, and related technical documents. However, they continued to demand general noncircumven-

tion language close to Article XII of SALT II, and language parallel with Article XIII of SALT II.

We continued to oppose the noncircumvention language but suggested that if the Soviets dropped it as well as language they were seeking in another article calling for follow-on negotiations, we could accept language which was essentially a restatement of the *pacta sunt servanda* principle of international law similar to that of Article XIII of SALT II.

The Soviets made some further modification in their approach, dropping the words "not to circumvent," but continuing to include language to the effect that the parties would not take any action through any state or states or otherwise which would conflict with the treaty. We objected to the language as too general and designed to provide a basis for seeking to interfere with our cooperation with our NATO allies, including in the area of modernization of forces.

There was no doubt in our minds or that of the Soviets as to just what was at stake here.

In the end, the Soviets agreed to drop all references to noncircumvention or to other states. They sought to expand the language concerning the requirement that the parties comply with the treaty and not undertake obligations contrary to its provisions to include actions or activities. We objected that actions or activities was too vague, and suggested undertakings in the sense of a formal act.

In the end, the Soviets accepted undertakings in English. Their last-ditch effort to provide a Russian translation of that word akin to actions or activities was turned aside in one of the final moves of the negotiations. The Soviets accepted a Russian word for "undertakings" which has the sense of a formal commitment, not an action or an activity.

There can be no doubt that the Soviet effort to incorporate language in the INF Treaty which would have served as a brake on our cooperation with our NATO or other allies or as a basis for public accusations of United States noncompliance failed. The language of article 14 and the negotiating record support the conclusion that this article, as finally agreed, does not in any way constitute a noncircumvention provision nor impose any additional obligations on the parties, nor interfere with any existing program of cooperation with our allies, nor interfere with any provision by the United States to its allies of any items not limited by the treaty.

What is left in article 14 is a restatement of international law. It says we must comply with the treaty and not assume any new obligations or undertakings that conflict with its provisions.

This is well-known language, and as you pointed out, Senator Helms, similar language appears not only in Article XIII of SALT II, but also in Article X of the ABM Treaty and Article VIII of the North Atlantic Treaty.

Now, let me turn to Minister Shevardnadze's statement.

Senator HELMS. But the term "undertakings" is not in the other two treaties.

Ambassador GLITMAN. That is correct, Senator, and as I pointed out to you, our effort was, having accepted that word, to make sure that we got it defined in the sense that it was a formal act as op-

posed to what they were seeking to use to turn it into some loose kind of activity.

If I may, I will turn to Minister Shevardnadze's premise. Minister Shevardnadze in Bonn did make some statements, which I do not have with me, concerning the spirit of the treaty and modernization. I do not have it, and I do not want to go beyond that, but he did not specifically cite the provisions of the treaty.

Now, what happened subsequently, on February 9, a hearing before a committee of the Supreme Soviet, Mr. Shevardnadze was asked a question, and if I may I will be happy to read that and his answer, because I think it is constructive.

Senator HELMS. Fine.

Ambassador GLITMAN. You will excuse my perhaps poor pronunciation of these Russian names. The question was from an unidentified speaker, he said:

Eduard Amvrosiyevich. In the capitals of the NATO countries, judging from reports in the media, an active debate is going on about the question of a buildup of nuclear weapons not covered by the medium- and shorter range missile treaty.

Thus, the potentiality is arising for the creation of additional nuclear potential by way of compensation for the dismantled Cruise missiles, those which are to be dismantled, the Cruise missiles and the Pershings.

Does the treaty give us any guarantee against such outflanking maneuvers?

Minister Shevardnadze responded as follows:

I shall try to answer that very briefly because in my introduction and to some extent Ygor Kuzmich spoke about it, too, I tried in my report, to say, to set out our position, but I understand your concern. There is indeed a lot being said just now about compensation, about creating modernization and so on, and this undoubtedly does give us serious cause for concern, and it gives our allies cause for concern, too.

I said in my speech that it is now very important to maintain dynamism, not to permit significant pauses in problems of disarmament. If serious intervals were allowed, quite unexpected developments of events would be possible.

Therefore, the treaty itself does not give such a guarantee, but it creates good conditions to achieve progress and achieve the reduction of weapons in other fields, too.

There, I think, Senator Helms, we have a——

Senator HELMS. Mr. Ambassador, this is very interesting to me, and I appreciate it.

Has this question been raised by any other committee or any other——

Ambassador GLITMAN. Yes, it has, Senator.

Senator HELMS. You have provided this information?

Ambassador GLITMAN. Yes, Senator, I have.

Senator HELMS. You have read the same thing to them that you just read to us?

Ambassador GLITMAN. I believe I have, Senator.

Senator HELMS. The Armed Services Committee?

Ambassador GLITMAN. Yes, Senator.

Senator HELMS. I am not a member of the Armed Services Committee.

Well, that puts a new light on at least this aspect.

I gather that since Mr. Shevardnadze said it and you have just read it into this record, that you would not have any objection, nor would the administration, to an amendment incorporating Shevardnadze's definition of "undertaking" just quoted by you. You would not object to an amendment like that, and the Soviets of course could not object to it.

That would not be a killer amendment, would it?

Ambassador GLITMAN. Senator, I do not think it is necessary, because we now have in the treaty a Russian language definition of the word "undertakings" which corresponds to exactly what we wanted it to say. So, it is already done.

Senator HELMS. What is that precise definition?

Ambassador GLITMAN. It is an act in the sense of the Helsinki Final Act or an act of Congress.

Senator HELMS. Do you want to read it to me? I would like to have it in the record right at this point.

Ambassador GLITMAN. Do you want me to read the Russian to you?

Senator HELMS. No, no. I would like what you would represent as the American translation of the Russian definition.

Ambassador GLITMAN. I would be happy to. Our translation of the Russian definition is the word "undertaking" in a formal sense of an act; as an example, the Helsinki Final Act or an act of Congress as opposed to a looser definition, activities or actions.

Mr. MATHESON. Could I make an additional point here, Senator?

Senator HELMS. Sure.

Mr. MATHESON. It is very important that we understand what each of these words mean, but if you look at the actual formulation in article 14, we are only talking about any international obligations or undertakings which will conflict with the provisions of the treaty.

So, regardless of what "undertakings" means, in fact, it is only relevant if it conflicts with the actual provisions of the treaty. This is much different from the noncircumvention provision of SALT II, which talked about circumventing the treaty, which obviously opened up the possibility of things outside the exact treaty obligations.

This does not. This is limited to the four corners of the treaty. In my mind, this text is absolutely clear. This is no more than the treaty obligations themselves.

Senator HELMS. Thank you.

Mr. Chairman, let me make a recommendation to which I hope you will agree. The most discouraging thing is to have a series of witnesses and then to have another one come along after the first ones have gone and raise questions that I did not think of.

I wonder if it would be appropriate, in your judgment as it is in mine, for Dr. Forte to come and sit and just invite him to comment if he agrees or disagrees. That would be helpful to me.

Would you two object to that?

The CHAIRMAN. I do not think we have done that before, but what would be appropriate is when they are through, then have Mr. Forte come before us, and then Mr. Matheson and Ambassador Glitman might stay behind for any questions, or maybe when we are through, one of them might stay.

But we have not done that in the past.

Senator HELMS. I would like for both of them to stay, and one of the methods of my madness is not to take up too much of your time by waiting around.

However, you are the chairman.

The CHAIRMAN. I think the best thing to do would be when we are through here, then ask Dr. Forte to come and ask the two of you, if you have the time, just to wait around until we are through.

Senator HELMS. Fair enough.

Mr. Ambassador, article 10, paragraph 8 deals with the issue of memorandum of understanding of the MOU data. Now, I raised with the Secretary on Monday the issue of whether the United States has inspection rights with regard to deployment areas and missile operating bases and missile support facilities if the Soviets claim to have eliminated these prior to the treaty entering into force.

I was assured on Monday that the United States does have this right, so this question occurs to me. What is the purpose of the last sentence in paragraph 8, which reads:

A deployment area, missile operating base or missile support facility listed in the MOU, memorandum of understanding, that met the above conditions prior to entry into force of this treaty and is not included in the initial data exchange pursuant to paragraph 3 of article 9 of this treaty shall be considered to be eliminated.

Now, I hope I did not read that too fast for you. Do you have paragraph 8, the last sentence, before you?

Ambassador GLITMAN. Yes, I do, Senator.

Senator HELMS. What is the purpose of that?

Ambassador GLITMAN. It is designed to make it possible to, in effect, say that if the party does eliminate one of these areas before entry into force, it can be considered eliminated but it will be subject to the baseline inspection and, therefore, we will have an opportunity onsite to verify that that base has indeed been eliminated.

It does not remove the right of the United States or the Soviet Union, for that matter.

Senator HELMS. Let me see if I understand you correctly. I think I do.

If it is eliminated, does it have to be included in the updated MOU 30 days after ratification?

Ambassador GLITMAN. It would not be included because it would be seen not to be there any longer; but the fact that it was in the MOU establishes the conditions under which we have the right to still go to that base and assure ourselves that it is gone and to continue to be subject to onsite inspection for the entire period of the onsite inspection regime.

Senator HELMS. So, we can inspect it to verify the elimination?

Ambassador GLITMAN. That is correct.

Senator HELMS. That is encouraging.

Which memorandum of understanding is operative with regard to inspection rights, the MOU of November 1 or the MOU furnished 30 days after ratification? Which one is operative?

Ambassador GLITMAN. The November 1 MOU is operative. Every facility that is listed in that document other than the missile production facilities are subject to the onsite inspection forever, at least for 13 years, I should say.

Senator HELMS. On Monday, Mr. Ambassador, I indicated concern that future changes and adjustments in the treaty would not be submitted to the Senate for its advice and consent. I made par-

tical mention of the activities and responsibilities pertaining to the Special Verification Commission.

I believe I got your implication in response that mere technical changes would not require Senate approval. Was I correct in what I understood to be your implicit response?

Ambassador GLITMAN. That is correct, Senator, but we are talking here about the protocols where we did discuss these technical things, new weighing devices or communications and things which we may not foresee.

But under the Case Act, we would, of course, have to notify the Congress that there had been these changes.

Senator HELMS. You gave as examples, as you say treaties that have had later protocols requiring Senate approval.

I guess I have sort of a double-barrel question. How do you determine what are substantive changes and what are merely technical changes, if any change can be merely technical?

Ambassador GLITMAN. I think the basic rule would have to be does it change the fundamental obligations of the treaty. If it does not change the fundamental obligations of the treaty and it is technical, and I gave a couple of examples, then one would assume that that would not require approval.

My own sense is that in any case, the Case Act is decisive. There would be value in close consultation with the Congress when something like this was being done.

Senator HELMS. Who determines that, though? Who bells the cat? Who determines whether it is substantive or technical?

Ambassador GLITMAN. In the initial instance, it would be the administration of the day who will determine whether this is substantive or technical.

Senator HELMS. Did you say the administration?

Ambassador GLITMAN. Executive branch of the day, yes.

Senator HELMS. I understand that, but who in the administration?

Ambassador GLITMAN. Ultimately, the President has the responsibility.

Senator HELMS. What about Soviet noncompliance with the treaty procedure? Will the Senate be informed of noncompliance?

Ambassador GLITMAN. Again, I think the procedures that have been followed in the past with regard to that issue would be followed with regard to this treaty.

Do you have anything on that?

Mr. MATHESON. That obviously is an issue of continuing relevance between the branches and not in any way limited or special about this treaty.

Obviously, there are compliance issues about many treaties, so that it is not this treaty that poses that problem, but it is a more general issue.

Senator HELMS. We are on the threshold of what one side says is beauty and love and affection and the other side says, "Whoa, we better watch and see what the Soviets have done in the past." This is what causes my concern about it.

What role should the Senate have? How should this committee, for example, monitor this very situation about substantive versus technical changes? What would you suggest?

Ambassador GLITMAN. Again, I said, Senator, that the executive branch under the Case Act would have to inform the committee, and I believe it is this committee, that there had been provisions being made for a technical change.

Now, I think the answer——

Senator HELMS. Are you saying all changes, technical and substantive?

Ambassador GLITMAN. With substantive, there is no question that that would require amendment and, therefore, advice and consent.

Senator HELMS. But there is automatic notification? I think you are right. I think it is this committee and the House Foreign Affairs Committee, but I do not know about that.

So there would be a transmission of information about any change, technical or otherwise? Of course, substantive would automatically be.

Mr. MATHESON. Let me suggest this, Senator. In implementing the Case Act regulations, the State Department has from time to time consulted with the Foreign Relations Committee in the event that there are issues about the form which a particular agreement should take or issues related to that.

I think it would be logical for us to be consulting with you as we develop our own thinking as to how we will draw this line.

In any event, as Ambassador Glitman said, when we make changes of this kind we will notify under the procedures of the Case Act. So, there will be two mechanisms in operation, the consultation of a general character and the specific notification in each case.

Senator HELMS. I think I am about to wind up. I want to submit some questions in writing, Mr. Chairman, but we are in sort of a technical area here, and I am afraid we will put the folks in the audience asleep if we go much further.

These are important questions, at least to me, and I want to have them resolved in my own mind.

On Monday, Mr. Ambassador, and I am not trying to rush anybody, but do you recall that I asked about whether U.S. charges of noncompliance will be transmitted simultaneously to the Senate as well as being addressed by the Special Verification Commission?

Ambassador GLITMAN. I do. I remember Secretary Shultz would take that question.

Senator HELMS. Yes, sir, and he is going to let us know.

Now, I do not want to rush you because we do not have to have it today, but I would like to have an answer to that question because I think it is an important question.

Mr. Chairman, with that, I think I have beaucoup additional questions, but I think I will submit them in writing.

The CHAIRMAN. Thank you. The record will remain open for the rest of the day for the submission of questions in writing, and I, too, have some questions that I would submit for the record.

Thank you, Senator Helms, and now, if you two would move back to your seats.

Senator HELMS. We will try not to hold you too long. I may be the only guy who is interested in this aspect of it, but I am interested, and I appreciate your staying around.

The CHAIRMAN. Thank you.

Now, we have Dr. David F. Forte, professor and associate dean, Cleveland Marshall School of Law, Cleveland State University, Cleveland, OH.

Senator HELMS. Mr. Chairman, let me say that I appreciate Dr. Forte's coming here on short notice. I know you do, as well.

The CHAIRMAN. Yes. So, if you would like to proceed in a reasonably succinct manner, Dr. Forte, we will be glad to hear from you.

STATEMENT OF DR. DAVID F. FORTE, PROFESSOR AND ASSOCIATE DEAN, CLEVELAND MARSHALL SCHOOL OF LAW, CLEVELAND STATE UNIVERSITY, CLEVELAND, OH: FORMER COUNCILOR FOR LEGAL AFFAIRS U.S. MISSION TO THE UNITED NATIONS

Dr. FORTE. Thank you, Mr. Chairman. I shall.

First of all, I would like to thank the committee for inviting me and to wish you a happy St. Patrick's Day. I would like to note that that great man might have been the author of the first total and complete disarmament when he removed all the snakes from Ireland.

Senator HELMS. Doctor, would you pull your microphone a little closer? The acoustics in this room are not very good.

Dr. FORTE. Certainly.

Mr. Chairman and Senator Helms, I come in admiration of the long and difficult negotiation process and of the work that this body and its staff have done to illuminate the critical needs of the defense of the West in relation to this treaty.

No matter what one's theory of arms control, I note that everyone agrees that it is vital that we get this treaty right, and I believe it can be done without any real distortion of the document.

We are a country of laws. We are a people in love with law. To us, if something is done in the name of law, it is done with nearly the same authority as if it were done in the name of God.

Other states may not respect the rule of law, but we do. If we bind ourselves within a legal framework, we are as limited and perhaps more limited than any foreign army could constrain us to be.

It is, therefore, critical to the well-being of this Nation and of its values that the legal norms in this treaty be unambiguous and that we do not find ourselves 2 years from now bound in ways we now are not aware of.

I start with the premise that the purpose of any arms control agreement and of this treaty in particular is to increase the security of the United States and of its allies. Any other purpose would be self-contradictory.

I also note that the concern of the proponents, opponents, and those with misgivings centers on the effect that ratification or the failure to ratify will have on our alliance in Europe. I share that concern.

Thus, in a reversal of Mark Anthony, I come not to bury this treaty but to assist in making it praiseworthy and legally effective in serving the interests of the United States and of its allies.

To that end, Mr. Chairman, let me note that there are, to my mind, some legal problems for the United States in need of reflec-

tion and perhaps resolution, specifically with regard to article 12 dealing with verification in accord with principles of international law;

With article 14, despite the illumination previously given prohibiting undertakings that would conflict with treaty provisions;

With article 13 dealing with the Special Verification Commission;

With article 16 dealing with amendments to the treaty;

With the fundamental question of what would constitute a material breach of the treaty and how the United States could effectively and legally respond to a material breach;

With the internal security dangers that might be posed by Soviet inspectors on our soil; and

With the separation of powers and rights of the Senate and the Congress as a whole in effectuating the provisions of this agreement.

I believe that all of these issues are easily correctible and can be done so in a manner that does not endanger the final success of the treaty. I sometimes think that a phrase we have heard, the attack of the killer amendments, is like a title for a B science fiction movie, which is far more frightening in the title than it is when we finally see it.

With but a little refinement, I think we can obtain a treaty that we and our allies can live with, and I am available for questions on specific provisions.

The CHAIRMAN. Thank you very much indeed. I have no questions at this time.

Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

Dr. Forte, as you know, article 12, section 1 requires the parties to use national technical means for verification in accordance with "the generally recognized principles of international law."

Do the Soviets, in your judgment, recognize general principles of international law?

Dr. FORTE. In short, only those they have specifically agreed to. The Soviets agree to specific principles of international law, but not to the notion of general principles.

Soviet writing on international law reflects their conception of law in general. Lenin said that the purpose of law was to suppress, that it was the method of the ruling class based on violence to effectuate its will.

Soviet writers on international law have said that when nations come to an agreement on treaties, they do not, as the bourgeois jurists say, reach a common will but merely a temporary coordinated will between two separate sovereigns.

One famous Soviet writer has said that during a treaty negotiation and conclusion, there is no community of interest or not just a community of interest but a degree of struggle as well that ought to be recognized.

Very often in my experience, the reference to principles of international law was designed to be ambiguous and not to be resolving of the problem.

For example, many years ago the United Nations passed resolution 1803 which permitted states to nationalize their mineral re-

sources in conformance with their national law, and we finally put in a phrase "and in conformance with international law."

We all knew that many of the Third World states' view of international law was that there was no obligation for just and prompt compensation, and we thought there was, but this phrasing papered it over enough so that we could all agree on the resolution.

All that meant was that we all agreed that there was not a generic principle of international law that we were agreed upon.

It seems to me that the reliance on a general principles of international law is something of a will-o'-the-wisp in this article. As I read the article, however, Senator, what I think it means in terms of plain meaning is that each party can use national technical means of verification, such as satellites, but cannot use means of verification that would be espionage, contrary to rules prohibiting interference with internal affairs of each other.

Thus, we would have the right to evict a Soviet inspector who was moonlighting on espionage, even though he might claim he was doing it in order to fulfill the inspection of the treaty.

On the other hand, to be balanced, if any of our inspectors or any information of Soviet noncompliance came by way of nonlegitimate means of technical verification, the Soviets could claim that that in itself was a violation of the treaty and that we were limited to find Soviet noncompliance solely through legitimate national technical means of verification.

Senator HELMS. Mr. Chairman, I wonder if Mr. Matheson or Ambassador Glitman have any dissent or anything they wish to add.

Would it be all right for them to come up to the table and say that?

The CHAIRMAN. Yes. I must say I am confused by your statement.

Do you mean that if you get intelligence through a spy, say, which is obviously not licit from the Soviet viewpoint, then that information could not be used?

Dr. FORTE. We would use it, but I would guarantee that the Soviet Union would claim that that information did not come from legitimate national means of technical verification. My plain reading of the phrase is, however, that it was designed to exempt illegal espionage from being legitimated as a means of seeking information by either side.

The CHAIRMAN. I am not sure we would tell them how we got the information, but maybe we would.

Is there any answer to Senator Helms' request? Does Ambassador Glitman have anything to add to that?

Mr. MATHESON. Would it be possible to do, Mr. Chairman, what you suggested in the beginning? When he has finished, we could come up and add any comments that we may have?

The CHAIRMAN. Yes.

Senator HELMS. Well, I still think it would be less cumbersome if they were here together all three of them, but whatever the chairman wishes suits me.

Prior Government witnesses before this committee have asserted that the language found in article 14 has been used in similar fashion in other treaties, and so forth, but we have covered I think most of that, and I am somewhat encouraged by what I have heard.

Dr. FORTE. I am, too, Senator, though I would like to leave one question for further comment through you regarding that.

Senator HELMS. Fine.

Dr. FORTE. The major problem I think we have is continually to reassure our allies that we in no way are leaving them in the lurch by this treaty, and I, like you, was comforted by the revelation that the word "undertaking" is translated in the Soviet language, in the Russian language, as being a formal act either in the terms of a treaty or international act, as I understand it, or a formal governmental act, and that further, that those undertakings that are prohibited are only those which would conflict with the provisions of the treaty.

Well, the question I have is this: What if Congress, by formal act, authorizes the transfer of intermediate nuclear weapons technology to our ally? Is that an undertaking within the terms as now defined by the Soviet Union?

And would that conflict with the provision of the treaty by which we agree to eliminate intermediate-range and shorter range missiles?

Certainly if we just turned over the key to our European allies now, that would be regarded as violation of the provisions of this treaty, but suppose we give them all the technology to rebuild them by a formal congressional act, could it not be argued by those terms that we have undertaken, contrary to the terms of the treaty, an act violative of one of its provisions?

Senator HELMS. I wish I could hear Ambassador Glitman's comment on that.

I guess we will hear it later, but it would be clearer to me if it were right next to the comment itself.

Dr. FORTE. Again, and I am sorry for interrupting, but that again, I believe, Mr. Chairman, is easily corrected. All you need is a definition of "undertaking" that would not include that.

Indeed, Mr. Chairman, I would urge the Senate at some time or another to consider wording to be attached to the treaty that has the effect of saying that nothing in this treaty modifies or limits U.S. obligations to the defense of NATO or to its support of its allies in any way whatsoever.

Senator HELMS. Well, I certainly agree.

Ambassador Glitman, would you just nod your head or shake your head, as the case may be, with respect to his suggestion? I know you will address it later.

I wish you were sitting right beside him so we could have an informal discussion or a formal-informal discussion.

The CHAIRMAN. Well, I hate to get the administration witnesses into a debate.

Senator HELMS. Well, I do not regard it as a debate. I do not think Dr. Forte came here to debate, nor did Mr. Glitman.

All right, we will bring that up later.

Prof. Ian Brownlee of Oxford University wrote that when a nation signs a treaty, "that signature creates an obligation of good faith to refrain from acts calculated to frustrate the object of the treaty."

Dr. Forte, would you consider that misrepresentation or deceit in providing false information while a treaty is being drafted, would that represent bad faith?

Dr. FORTE. Oh, absolutely. The Vienna Convention on Treaties, to which we do not adhere but which in large extent codifies much of customary international law on treaties, states that either fraud or error—and they define them in commonsense terms—either fraud or error that are fundamental to why a nation would enter this treaty, are means by which one party may invalidate its consent.

So, if there were shown to be fraud of a substantial type or even good faith error on perception of the facts, either party through its executive branch, if we are talking about the United States, would have the option without having to announce a 6-month renunciation period, of avoiding the treaty and its obligations altogether.

Senator HELMS. Well, let's be specific, and I have touched on this a number of times since these hearings began, much to the displeasure of some of my friends, but let's use the hypothetical that I do not think is even a hypothetical. I think it is a lead-pipe cinch—if the Soviet Union did not provide accurate information on the deployment of SS-20's and gave misleading data as to the number, the description, and the location of its intermediate force missiles, would that be an act of bad faith?

Dr. FORTE. If they did—it would seem on the surface to be without any sufficient explanation, if they did so with the evident intent—and I think the burden would shift to them immediately to show why—with the evident intent of leaving these missiles uncovered by the explicit words of the treaty, that would strike me as fraud.

Senator HELMS. So, a lack of good faith in such a circumstance would make the treaty voidable, would it not?

Dr. FORTE. Yes, sir, that is the correct term.

Senator HELMS. If I understand international law correctly—and one of my virtues is that I am not a lawyer, but if there is an error in a treaty regarding an essential fact assumed to assist at the time the treaty was signed and ratified, and that fact did not exist, then the treaty can be voided by the injured party, right?

Dr. FORTE. That is correct, and you stated it correctly. The error in fact has to be an error of fact at the time the treaty was negotiated and went into effect.

Senator HELMS. So, my point is obvious. If we signed and ratified the INF based on certain facts given to us by the Soviets, and those facts turned out to be false, then the treaty would be void, pure and simple, right?

Dr. FORTE. Voidable.

Senator HELMS. Voidable, yes.

Dr. FORTE. Yes, sir.

Senator HELMS. Would any authorization, and I am going back to article 14, would any authorization by Congress, including the Foreign Relations Authorization Act, constitute an act under article 14?

Dr. FORTE. Well, now, I think you are asking Ambassador Glitman through me what the Russian word "undertaking" includes, and since I do not know it, I am not able to answer that. But again, it seems to me whatever ambiguity there is there could easily be

corrected. Certainly the Soviets would have no objection if they have already agreed that the European deterrent should be free and unincorporated. They should have no objection to permitting a clarifying amendment.

Senator HELMS. Well, of course, I am trying to get to the bottom of it through your judgment and through Ambassador Glitman's judgment.

Dr. FORTE. Senator, in my experience with negotiating, which is less extensive and less of moment than Ambassador Glitman's, at the United Nations, the Soviet Union very much likes to have ambiguous phrases and clauses so that they can be less bound should circumstances change and their national interest be furthered thereby.

I recall, for example, in the negotiations on the Code for Transnational Corporations, after we had all agreed on a definition of what a transnational corporation would be, we said to the Soviet Union, does Aeroflot or any of your state trading corporations which are international, correspond to this definition, and would you be subject to the code, and the answer was consistently, "that would be a matter for interpretation."

Senator HELMS. Now, you alluded to this in your comments. And let me come back to it.

Would not any support or any transfer of technology to our NATO allies have to be authorized by such act, at least in general?

Dr. FORTE. I would think under the congressional power to raise and equip armies, that is required, a congressional act would be required.

Senator HELMS. So would I.

Mr. Chairman, I see the distinguished Senator from Washington here.

The CHAIRMAN. Yes.

Senator Adams.

Senator ADAMS. Doctor, is not article 14 not really boilerplate that is put in a number of treaties?

Dr. FORTE. It is boilerplate, but it has different words than the other boilerplate, and whenever we in international law, in any statutory provision, find a word that is out of the ordinary, it must have some meaning, and Ambassador Glitman tried to gloss that meaning, and I think we still have one or two questions regarding that.

Senator ADAMS. Doctor, you mentioned that the Russians want to make changes and use the word's interpretation and so on.

Is that not what the administration is doing now with the ABM Treaty?

Dr. FORTE. It may or it may not be. I am not here to discuss that issue. I am here to discuss what kinds of problems may arise with ambiguous legal phrases in this document, and if indeed you believe that the administration should be faulted in its reinterpretation, if that is the proper word, of the ABM Treaty, we should equally be cautious and more cautious of this treaty, for it is far more significant for our future.

Senator ADAMS. You think it is more significant than the ABM Treaty for our future?

Dr. FORTE. I do because it is being regarded as a set piece for further reductions in arms in the START talks and in other areas. It is a treaty of watershed importance, and all people agree upon that.

Senator ADAMS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Adams.

Senator HELMS. Mr. Chairman, I feel that I have kept the Ambassador here without due cause, but I do appreciate your staying around, and the same to you, sir.

I have no more questions for Dr. Forte and for our witnesses. I thank them, and I thank you for holding this hearing.

But I may have some written questions, as you indicated you would.

The CHAIRMAN. Yes, there will be some written questions that will be submitted.

I thank the administration witnesses for their willingness to stay through the hearing, and I thank Dr. Forte for coming here on such very short notice.

This recesses this session of the committee.

[Whereupon, at 11:12 a.m., the committee recessed, to reconvene at 2:05 p.m. this same day.]

AFTERNOON SESSION

The committee met, pursuant to notice, at 2:05 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Cranston, Adams, Helms, Pressler, and McConnell.

The CHAIRMAN. The Committee on Foreign Relations will come to order.

Today we are welcoming Maj. Gen. William Burns, Director-designate of the ACDA, together with Dr. Manfred Eimer, Assistant Director of the Arms Control and Disarmament Agency.

General Burns, who was confirmed by the Senate on March 3, will retire from the Army on March 31 and will take over at ACDA at that time.

The purpose of this hearing is to explore further verification issues related to the INF Treaty. Earlier the committee heard from Ambassador Nitze in open session and senior officials of the intelligence community in closed session on verification and compliance. We will receive testimony on the Select Committees on Intelligence's view next Tuesday morning from Senators Boren and Cohen.

The evidence the committee has received to date indicates the treaty is effectively verifiable. We will be interested to ascertain that General Burns and Dr. Eimer concur in that judgment and receive their views on the applicability of verification provisions of the kind achieved in INF to future arms control.

I would add, later, for the information of my colleagues, we expect to have a briefing on the Nicaraguan-Honduran situation around 4:30 I think is the schedule.

Senator Helms.

Senator HELMS. Mr. Chairman, I thank you very much.

Let me state, if I may, in a general sort of way the parameters of what I hope we can discuss today, both in public session and in private session.

When it comes to verification, I presume we agree that means the ability to determine whether the Soviets are complying with the treaty or not. That means, I think, that we have to know, one, how many SS-20's there are, how many the Soviets will destroy, whether they can make new ones without being detected in the act, whether they can hide SS-20's outside of the declared sites—and that possibility gives me a lot of heartburn—and whether the SS-20's hidden outside of the sites can be kept in operating condition without testing.

With regard to the numbers, the Soviets have traditionally targeted about 600 sites in Western Europe—I think that is sort of an agreed upon figure—which alone would require 1,200 warheads to assure destruction, 2 to each target. Now, that bare minimum would require 400 SS-20's. However, the Soviets assume that in battlefield conditions, half of the weapons would be inoperable, destroyed or otherwise unavailable, so to assure that half of them could be fired would require 800 of the missiles, SS-20's.

In addition, each launcher needs at least one missile for the purposes of test firing. So with 405 to 450 launchers, the conceptual total would be, as I figure it, about 1,250, which happens to be the published estimate made by the Defense Intelligence Agency.

Now, the treaty provides for the destruction of 650 SS-20's. Now, bear in mind the figure of 1,250 that I just alluded to. Now, we can verify that 650 missiles without warheads will in fact be destroyed, but we cannot tell whether the missiles that are destroyed are good missiles, operative missiles. They could very well be factory rejects, never deployed, ones with aging components, or even uncompleted vehicles or dummies. The treaty does not provide us with any qualitative inspection.

The third problem, I think, is whether the Soviets can make, produce more SS-20's, thereby destroying their old missiles while modernizing their fleet. It appears that the first two stages of the SS-25 not covered by the treaty, the first two stages of the SS-25 are so similar to the SS-20's that the SS-20 reentry vehicle and the warheads some contend, can be bolted onto the first two stages of the SS-25.

That is another thing I would like to nail down for certain.

The treaty allows the Soviets to take out the SS-25 through the portal without challenge, and they can bolt on the reentry vehicles and the warheads in the field. Then there is the matter of fact that once the SS-20 is in the field, it can be hidden anywhere with a very small chance of detection and no right under this treaty of inspection. It can be hidden under camouflage anywhere, or inside the SS-25 containers, on SS-25 bases.

So, I guess it is fair to say that old SS-20's never die, at least not for many years. Reliability testing can be conducted illegally through test launches or by testing the SS-25 legally.

Now, the SS-16 was deployed, I would remind the committee, it was deployed for 10 years without testing before we even discovered it.

So, these are some of the concerns I hope we can examine this afternoon, and I want to join the chairman in thanking the both of you for coming here today.

The CHAIRMAN. Thank you very much, indeed, Senator Helms. General Burns and Dr. Eimer, please proceed, bearing in mind we have quite a few specific questions. If you would express your thoughts as succinctly as you can, any full statement or any statement you may care to make or have with you would be inserted in the record as if read.

**STATEMENT OF MAJ. GEN. WILLIAM F. BURNS, DIRECTOR
DESIGNATE, U.S. ARMS CONTROL AND DISARMAMENT AGENCY**

General BURNS. Thank you, Mr. Chairman.

I am gratified to be here. I have submitted a statement for the record.

Let me say very succinctly that I believe on balance the INF Treaty is good for the United States, it advances U.S. national security interests, and it is verifiable.

I would like to turn the microphone now over to Dr. Eimer.

[The prepared statement of General Burns may be found in the appendix.]

The CHAIRMAN. Thank you very much, indeed.

I wish all witnesses' statements were as forthright and succinct as that.

**STATEMENT OF DR. MANFRED EIMER, ACTING DIRECTOR, U.S.
ARMS CONTROL AND DISARMAMENT AGENCY**

Dr. EIMER. Thank you, Mr. Chairman. I will also try to be very brief so we have as much time as necessary for answering questions.

Let me just make one point.

The CHAIRMAN. Would you move the microphone just a tiny bit closer?

Thank you.

Dr. EIMER. Let me just try to make my point in introduction. I think some of these issues will come up again later on, and I have a statement for the record which I hope will be useful.

The important thing I think I would like to state is that the INF Treaty was designed from the beginning with verification in mind, and verification aspects of the INF Treaty are not an afterthought. They are built into every provision of the treaty.

I think another important point is that we were aware from the beginning, for the many years that the work has been going on on the treaty, that there would be certain deficiencies in our capabilities, and the most important ones are that we would simply not be able to be certain that Soviet declarations would be accurate. So, the treaty is drafted with a fundamental assumption that we would not rely on Soviet declarations at any time, either at the initiation or later on.

And the second basic assumption in designing a treaty is that while INF limits the numbers of systems, that we could not count on intelligence to provide an accurate total count.

So, in drafting a treaty, both of these things were taken into account, first, the fact that we could not rely on Soviet declarations, and second, that there would be inherent deficiencies in terms of obtaining the total count.

The basic approach was that we would, in a sense, divide the Soviet Union up into two regions, one, a declared region where everything would be overt and we would count systems there by visual onsite inspection; and the rest of the Soviet Union, which is the much larger part, we would count on intelligence not to count missiles but to detect them.

So, that is the basic scheme, and I think the treaty succeeded fairly well in meeting its objectives, and I also believe that the treaty is effectively verifiable as it stands.

[The prepared statement of Dr. Eimer may be found in the appendix.]

The CHAIRMAN. Thank you very much indeed.

I have asked the staff to put the timer on.

General Burns, yesterday the President transmitted a report on the adherence of the United States to and the compliance of other nations with the obligations we have undertaken in connection with arms control. It was prepared in ACDA, pursuant to my own amendment to the ACDA bill last year, and was to include information on "actions taken by the Soviet Union and other nations with regard to the size, structure, and disposition of military forces in order to comply with the arms control agreements."

The report said what actions are taken for a variety of reasons, only one of which may be compliance, and then refused to give the required information.

I do not think that is acceptable. This was the first time that the requirement was placed, and I hoped we would receive information on Soviet activities over time which would help us understand how our adversary behaves with regard to obligations.

It was a serious inquiry that I thought deserved a serious answer. I realize it may be a little unfair since you have just taken over, but you have a miniphalanx behind you, so maybe somebody will be able to give us an answer.

Will you prepare a report to the committee which provides detailed information on activities by the Soviet Union and other nations which relate to obligations assumed under past and present arms control agreements, beginning with SALT I, and provide that report, as I believe is already in law, within a month or so of assuming office?

General BURNS. Mr. Chairman, first of all, I appreciate your earlier comment. Since I have not actually taken over and have no authority in the Arms Control and Disarmament Agency, I am not in a position to comment from the Director's chair on that report.

I believe over time the information which you have requested has been developed and has been provided in a variety of sources.

If you wish, I will certainly undertake to draw these together, and in the period of time you suggest, to provide you with that report.

The CHAIRMAN. That would be great, and could you ensure that the report next year includes the information that Congress really requested?

General BURNS. I will certainly look into it, and we will certainly try to accommodate and comply with the congressional wishes.

The CHAIRMAN. Best efforts.

General BURNS. Certainly. Thank you.

The CHAIRMAN. Now, what do you think will be the role of ACDA in the implementation of the onsite inspections in the INF treaty?

General BURNS. Senator, first of all, the law requires that the Director of the Arms Control and Disarmament Agency take an active part in and bear principal responsibility for the execution of arms control treaties. I intend to exercise those responsibilities both as an adviser to the President as the law specifies, but more importantly, as an active participant in the policy formulation of the direction of this activity.

At the present time the onsite inspection agency has a principal deputy from the Arms Control and Disarmament Agency. I plan to use that deputy as my source of influence, source of information, and source of direction, if necessary, in this activity.

I also would state that I have great confidence in the Director of the Onsite Inspection Agency. I believe that his competence is obvious from his background. Knowing him personally, I believe that he will execute the responsibilities inherent in that position. I believe he is someone I can work with, and through these methods, I believe that I will assure that I am not only knowledgeable but influential in the exercise of these responsibilities.

The CHAIRMAN. Do you see the development of sort of a verification commission corps, a group of men and women with perhaps their own badge or their own uniform, if they are civilians, so that they develop a sense of continuity. I guess the best word to describe it would be esprit de corps? You would not change each time around, but there would be a central corps of inspectors.

General BURNS. It is interesting you raise this. In the last 48 hours I have had three discussions along these lines.

Yes, I foresee, assuming that the INF Treaty is the beginning of a series of treaties which will require onsite inspection, that the onsite inspection agency is beginning a process.

At the present time, for reasons of expediency, I believe, it is primarily a military operation. The military are best equipped at the present time to set this up and execute it.

How it will develop in the future I think is an open question. I have not made up my mind as to whether this should continue to be an essentially military operation. If it is, then it impinges upon such things as the Defense budget. I am not sure it should.

We may want to look in the future at an organization which is independent, perhaps under the Arms Control and Disarmament Agency, where the various inspections required are executed perhaps by a professional corps.

One of the difficulties I see in an inspection regime is that for an inspection regime which must continue over a long period of time if the people move in and out very quickly, it will be hard to develop a certain expertise. I hope in this organization that such an expertise can be nurtured and retained, and perhaps some sort of formal organization will be required to do that.

The CHAIRMAN. It might become sort of a public health service corps, along that structure or that line, or the seagoing officers in NOAA where it would have a sense of continuity and yet also of individuality.

General BURNS. That is an interesting approach, and I think it is worthy of exploration.

The CHAIRMAN. Thank you.

The question comes of the testing or rather inspecting anytime, anywhere.

Do you think the treaty would be improved if we had been able to get into it a provision that each side could inspect anytime, anywhere, not just at the declared sites?

General BURNS. No, sir, I do not.

The CHAIRMAN. Why not?

General BURNS. The reason is that in examining an onsite inspection regime over the last 2 or 3 years, I came to the conclusion there are two values we are trying to protect: First of all, our ability to inspect as intrusively as possible the other side; and, second, our ability to protect our vital interests on our side. An anywhere, anytime type of inspection unnecessarily places at risk U.S. national security interests.

So, I believe that in INF it would not have been a wise thing to do. Perhaps in no case is it a wise thing to do, but in this case it is not only not wise, but it is not necessary.

The CHAIRMAN. And one final question.

What do you consider as the minimal verification requirements? What would they be for the START Treaty?

General BURNS. I believe that the INF verification regime would serve as a useful point of departure. I believe, though, that in addition to the INF verification regime, we must have portal and perimeter monitoring around additional Soviet facilities, certainly Soviet facilities where systems controlled by the treaty would be placed in their final form, final assembly facilities; with short notice certainly of storage facilities, and then depending upon what technical analysis showed, other kinds of facilities, perhaps including facilities where systems would be operationally located.

The CHAIRMAN. Thank you very much.

No further questions.

Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

Dr. Eimer, you are Assistant Director of the Bureau of Verification and Intelligence of the U.S. Arms Control and Disarmament Agency.

Dr. EIMER. Yes, sir.

Senator HELMS. How long have you been in that job?

Dr. EIMER. I have been at ACDA for 14½ years, and I have been an Assistant Director for about 7.

Senator HELMS. Good.

Senator Pell in one of the early hearings made the comment that nobody knows how many SS-20's the Soviets have, and nobody will know, and I absolutely agree with him on that.

Do you?

Dr. EIMER. No, I do not know how many SS-20's the Soviets have, and I do not think we will know how many they have, and

we have assumed that that would be the case for the many years that we have worked on this treaty.

Senator HELMS. Yes. Now, Cap Weinberger, before this committee, stated that the Soviets can go substantially longer, I think he said "much longer" than 3 years without testing SS-20's and still maintain a high degree of confidence in their reliability.

Do you agree with Cap on that?

Dr. EIMER. I think that is correct. The SS-20 is a fully tested missile. Even, if they do not test it for 3 years, they would still have a good measure of confidence in it.

Senator HELMS. I consider you an expert witness, and this is going to require that you use your best judgment.

How many years would have to pass without flight testing of the SS-20's, can we be reasonably confident that they would be inoperable?

Do you have an opinion about that?

Dr. EIMER. My opinion would be that after about 10 years, they would become a hazard to launch. And I think there would probably be a degradation in reliability over the 10 years, but by the end of 10 years it might very well be hazardous to launch them, hazardous to the launchers, I mean. In other words, they could blow up at the launch site.

Senator HELMS. Now, Richard Perle sat right there, and he testified that the chances of the United States detecting covert SS-20's is about 1 out of 10.

Is that a fair estimate?

Dr. EIMER. Well, I do not want to get into semantics, but if they are truly covert, we will never detect them. I think it depends on what assumptions you make about the state that they are held in. If they are held in some room in Siberia and never moved out, we would never detect them.

Senator HELMS. Or in some cave.

Dr. EIMER. Some cave. But the argument that we have—

Senator HELMS. Excuse me. Well, as a matter of fact, we do not even know what an SS-20 looks like. We have never received an authentic photograph, have we, of the full SS-20, have we?

Dr. EIMER. No, no, sir, we have not. We have received a photograph which is most of the SS-20, but again, if the photograph were of Soviet origin, my assumption would be that it might not be even the correct missile. In the treaty we have put in provisions so that there will be a time when we can be assured of knowing what an SS-20 looks like, and at that time we will in fact be able to assure ourselves that what we are controlling is in fact what was intended.

Senator HELMS. But the fact is, at the time the treaty was drafted, nobody knew anything about the SS-20 of any substantive nature, had no photograph of it, had never seen one. That is about right, is it not?

Dr. EIMER. That is correct.

Senator HELMS. Now, let's look ahead, admittedly speculatively. After 3 years, when all of our Pershing II's have been removed, destroyed, if we detect a covert SS-20 force at that time, after 3 years, what would be our response?

Dr. EIMER. Well, that would really depend on the circumstances. What the U.S. response would be under those circumstances, I would not be able to predict. I assume we would make a vigorous response, but I do not know what we would, in fact, do at that time.

Senator HELMS. Well, I guess what I am getting at, and I expect we are going to run into precisely that, be in the position of locking the barn door after the horse is way down the road—do you think the European countries would agree to a redeployment of the Pershing II's under such circumstances as that?

General BURNS. Apparently I have been given the mike suddenly.

Senator, I believe that you are positing certain circumstances, and if the circumstance you posit involved a direct violation of the treaty by the Soviets. If, as Richard Perle said, we can detect 1 in 10, and we suddenly detect 5, using his figures, that means the Soviets could have a viable force of up to 50 in hiding, then I would say that the shock to the Europeans would be such that they would probably beg us to deploy a system.

The question is, What system would we deploy?

More importantly, though, what threatens the SS-20, this supposed covert force, is not the Pershing II but it is our strategic arsenal and other systems which we would retain, including conventional systems.

So, you know, this is purely speculative, but it seems to me that if we were to assert a Soviet violation, say, 5 years from now, where we detect a militarily significant covert force, then it would be incumbent upon the administration of the time, the President of the time, to take strong reaction.

This reaction I would imagine would include the strengthening of our nuclear forces in Europe since this was the equation originally drawn with the SS-20. It would be speculation beyond that to say what exactly we would do. I am not sure what weapon systems we would have 5 years from now that would be able to deter the Soviets, if that is what we are trying to do.

Senator HELMS. Well, a great deal of the problem with respect to this whole affair is the political climate orchestrated in Europe and about the same extent in this country to disregard the facts of life with respect to the Soviets, and to trust them. I think I was asking for your opinion, whether you thought that political climate would change and the European countries would be willing to bite the bullet and allow the reentry of nuclear devices to protect themselves.

Do you think they would?

General BURNS. I think under the circumstances that you described, yes, sir, I believe they would.

Senator HELMS. OK. If we do not know how many SS-20's the Soviets have, and we do not, if we have only 1 chance out of 10 in finding covert SS-20's, if we do not know what an SS-20 looks like in the event we do stumble on one, and if we do not have anything we could do about it if we do find one, how can we really seriously claim that this treaty is verifiable?

General BURNS. Senator, I think what we are doing is looking at one aspect of the verification regime, and treaty text, the onsite in-

spection protocol, the elimination protocol, and so forth. We have to realize that there is another aspect which is separate from this, and this is our national technical means.

In 1977 when Chancellor Schmidt first raised the spectre of the SS-20, we asserted there were SS-20's present, and from that time we maintained a fairly accurate count of deployed SS-20's. We never saw an SS-20, because the SS-20 is in a canister, but the canister on its transporter-erector-launcher represents a unique vehicle, as does the single-bay garage.

So, over the years we kept a fairly accurate count of deployed Soviet missiles.

Now, the number of nondeployed has always been speculative, and the intelligence community has done numerous studies to try to narrow the differences as to how many one must assume are not deployed if x number are deployed.

But, it seems to me that we do have ways of detecting the existence of SS-20's, SS-X, or whatever type of missile, very early in its stage of manufacture and deployment.

If a covert SS-20 force were to be maintained, I believe that even with Mr. Perle's rate of 1 in 10, before that force became militarily significant, we would detect its existence, and under the treaty, the detection of a single SS-20, and not even the missile, just the launcher or single bay garage that was supposed to have been eliminated by the treaty, would be a violation of the treaty.

So, I would submit that even if we do not see the missile, if we see their equipment associated with the SS-20, we should declare a violation.

Senator HELMS. All right. The Soviet SS-20 will go into an SS-25 canister, will it not?

General BURNS. The Soviet SS-20 will go into an SS-25 canister, that is correct as far as the dimensions are concerned.

Senator HELMS. And the SS-25 is not covered by this treaty. But what you are saying to me—and I do not want to put words in your mouth—what would be your recommendation if you found 10 covert SS-20's down the road? What would be your recommendation about this treaty?

General BURNS. It depends at what phase of the treaty we were in. If we were in—

Senator HELMS. Three years.

General BURNS [continuing]. If we are in the period of elimination, I would immediately stop our own elimination procedures.

After completion of the period of elimination, let's say 5 years down the road, then again it would depend upon the situation that existed at the time.

First of all, the timely identification of the violation is important, and not only the identification but publicizing the extent of the violation is important.

Then I believe at the time there are both political and military gestures which we could make which would begin a process of applying pressure on the Soviet Union either to conform to the treaty or before the world be recognized as a country which will not conform to the INF Treaty, and the INF Treaty is a dead issue.

Senator HELMS. Would you consider strong consideration of abrogation of the treaty?

General BURNS. I think early in this process, abrogation should be considered if the Soviets are found in violation by deployment of SS-20's.

Senator HELMS. Well suppose the SS-20 is—we have already talked about the canisters of the SS-25 and the SS-20.

Let's suppose the Soviets deployed some SS-20's in SS-25 canisters and launchers. How serious would that be to you, the same thing as you just said?

General BURNS. First of all, as you suggested, this would be difficult to detect because the canisters are never open in the field. So, it would be by pure accident that we would detect this.

But let's look at what we are really seeing if we see SS-20's in SS-25 canisters. We are assuming there is no START Treaty, so there is no constraint on the Soviets in the SS-25. For every SS-25 canister in which they deploy an SS-20 clandestinely that is a missile with its warheads that cannot strike the United States.

Senator HELMS. That is right.

General BURNS. Second, a missile which is covertly hidden in an SS-25 canister cannot be the political threat to Europe for which the Soviet SS-20 was designed.

So, I cannot imagine a situation in which the Soviets would want to do that. I am not sure what their motivation would be to do that. I could more easily see them, if they could do it, attempting to deploy a covert SS-20 force as an SS-20 force, but not hide it as a substitute for an SS-25 force.

Senator HELMS. Well, I can because, in the first place, the SS-20 is remarkably less expensive than an SS-25.

Now, tell me again why you think they would not—if they wanted to cheat, and they have cheated on every treaty they have ever signed, but—

General BURNS. Well, if they wanted to cheat on the INF Treaty, I would give them a little more credit than taking an SS-20 and putting it in an SS-25 canister.

Senator HELMS. Suppose they had more canisters than they did SS-25's.

General BURNS. Well, the problem is you have to ask why they would do it. The purpose of the SS-20, in my opinion, was to provide a political threat to Europe. An SS-20 which is covert, hidden, or an SS-20 which is in an SS-25 canister would not represent that political threat. So, then the question comes under what circumstances would they maintain this?

Well, in a period of breakout, they could suddenly say these SS-25's really are SS-20's. In a period of crisis with the United States, these SS-20's would not threaten the United States, but only Europe and other parts of the world.

Senator HELMS. I will agree to that, but we are talking about a time when the Pershing II's are no longer there, and they have all of these hundreds, I think, of SS-20's, some of them covert. Our intelligence people are all over the lot about how many, but they are agreed that there are a whole lot more SS-20's than were identified in the MOU, the memorandum of understanding.

Now, maybe you have more confidence that there will not be the duplicity in this treaty that has occurred in every treaty that the Soviet Union has ever signed with anybody, but I do not have that

confidence, and the SS-20's are cheaper, and they will be at a time when NATO will not have the Pershings, and so forth.

I do not understand your reasoning that the Soviets would not be inclined to use it.

General BURNS. Well, it is not a question of whether the Soviets would be inclined to use it. It was whether the Soviets would be inclined to use it as a threat either to force Europeans to their way of thinking or to deter the Europeans from doing something. The SS-20 was designed as that kind of system. When the SS-20 disappears, to disguise it as an SS-25 does not particularly threaten Europe. Sure, the SS-25 can strike Europe, but it is not the peculiarly tailored threat to Europe represented by the SS-20's.

In a crisis situation, I suppose we could hypothesize that the Soviets could suddenly declare that certain SS-25's are really SS-20's. I think it is more likely, if I were the Soviets, not to try to keep SS-20's because the SS-20 is an old missile, and to continue to develop a replacement for it is going to require testing which we would observe.

As Dr. Eimer said, the Soviets could go for a few years without testing and still believe that they have some sort of reliable system.

To maintain that the SS-20 is a reliable system for that long a period of time, I do not think would be a wise course of action, and I think if the Soviets did that, they are sort of playing into our hands.

Let's keep them with obsolete systems.

Senator HELMS. I have got a little note that my time is up. Apparently the lights are not working.

So, thank you, Mr. Chairman.

Thank you very much.

The CHAIRMAN. Neither the lights nor the bell are working, I regret to say.

Senator HELMS. I see.

Senator CRANSTON. I thought that went on for a long period of time.

The CHAIRMAN. Senator Cranston.

Senator CRANSTON. Thank you, Mr. Chairman.

I would like to address a question to you, Mr. Burns, and I welcome this opportunity to speak with both of you.

First, did the intelligence community have any problems with the SS-20 photographs that the Soviets provided?

General BURNS. First of all, I think we have to differentiate among photographs. The initial photograph we received was a facsimile photograph which was not particularly clear, but at the same time, the initial intelligence analysis was that yes, this was probably the system which was in that SS-20 canister.

When the Soviets provided us the second picture, it was a clear picture of the missile basically without the warhead, it was in fact the configuration of the missile which we would be looking for in a canister coming out of Votkinsk.

So, from the intelligence point of view, that picture did document the fact of an SS-20.

The whole idea of photographs is, in a sense, icing on the cake because we have already made our analysis of what an SS-20 looks

like, what its dimensions are. The dimensions the Soviets provided were extremely close to our estimates.

I had the opportunity several years ago to go to the laboratory which does these estimates and was pleased and surprised at their ability to make these kinds of estimates.

This all came together with the pictures. So, I am quite satisfied that the pictures are pictures of the SS-20, or whatever the missile is that is in this canister. We call it the SS-20. The important thing, though, is that we will have the opportunity during onsite inspection at Votkinsk to actually look in canisters of our choosing to determine whether this missile which we have described as the SS-20, is actually in Votkinsk. We hope it is not there. We hope it is an SS-25.

Senator CRANSTON. Thank you.

What effect does the ban on flight testing and production have on the confidence you have in detecting whether the Soviets could field a militarily viable covert force?

General BURNS. Let me begin the answer. Perhaps Dr. Eimer might want to add.

In my opinion, and I must say, this is based on my military background, two things are necessary for a viable system, constant training and periodic testing. If you deprive the system of testing, and I am talking about almost any weapons system, the reliability of the system or confidence in the reliability of the system deteriorates.

If the system is not trained upon for a significant period of time, then it becomes highly unlikely that without a concentrated period of obvious training, the system could be made to work.

Twenty years ago I had the unfortunate opportunity of having to stand my field artillery battalion down for several months, due to lack of funds—the money was going to Vietnam, and I happened to be in the States. It took several months after that to bring an 8-inch battalion up to operational capability, including its nuclear delivery capability. I think a missile system has this problem many times over.

Senator CRANSTON. So, without testing over time and without training under actual field conditions, the Soviets could not maintain confidence.

General BURNS. That is my belief, Senator.

Senator CRANSTON. Do you have confidence you would know whether the Soviets were flight testing missiles?

General BURNS. I believe we would have great certainty of being able to detect even the first flight test of any covertly stored missile.

Senator CRANSTON. Do the Soviets have other systems that are not banned by the treaty that they could use to cover targets now covered by the INF systems?

General BURNS. Yes, they do, Senator.

Senator CRANSTON. So, that leads to the question of what logic there would be behind any Soviet effort to cheat in ways that would jeopardize our confidence in this treaty, if they have legal means to cover targets they feel necessary to cover available to them.

General BURNS. Yes, Senator.

As I mentioned to Senator Helms, the SS-20 is a political weapon. The Soviets, for whatever reasons best known to themselves, have decided that this political charade need no longer go on, and they are prepared to eliminate it.

I think the INF Treaty in this case is a unique treaty, and we should deal with it on those terms. The fact that the Soviets could cover these targets is I think very important, just as we can cover targets that are presently covered by the Pershing II.

Senator CRANSTON. What are the principal factors in the treaty that give us confidence we can adequately monitor treaty limited items over time?

General BURNS. Senator, I believe first of all, the fact that we will have the opportunity to make a baseline inspection and actually see and count all items listed in and limited by the treaty; second, that we will have the opportunity to witness elimination of these items; third, that we will have an opportunity to make close-out inspections on the facilities where these systems were located to determine that at that particular time these systems do not exist there; and fourth, that we will have the opportunity periodically to make onsite inspections of these same facilities to determine that clandestine systems, covertly stored or in some other way hidden, are not brought out to be used.

Senator CRANSTON. Would it be reasonable in your view to exchange data that would be the legal basis for a treaty that has not yet been ratified by either party?

General BURNS. I am sorry, I am not sure I understand the question.

Senator CRANSTON. Well, does it make sense to trade information data now on matters that will be the legal basis for the treaty before you have actually had the treaty ratified? Are not both the United States and the Soviet Union, to give a reason for asking this question, moving missiles around now to various locations and perhaps the Soviets are now demolishing or dismantling some of their systems, so do we not expect the data presented after the treaty enters into force to be different from what is being provided to us now?

General BURNS. I understand. Yes, that was the reason why there is a specific provision in the treaty to update the data.

It was assumed that, first of all, during the period of time between the signing of the treaty and ratification of the treaty, both sides would maintain their military capability, and this would require moving systems and training with systems.

Also, it would be prudent for the sides, if they are serious about executing the provisions of the treaty, to position themselves so they could readily begin the elimination phase.

My personal opinion is that the Soviets are going to have a difficult time bringing about the elimination of all the systems to be eliminated in a 3-year period. I am surprised that they agreed to 3 years, quite frankly. If I were they, I would be positioning myself, I would be destroying a few missiles to see the best technique possible to do it and how quickly it could be done. I would be launching missiles, if I could, to reduce the inventory, as it were.

Our whole point in entering into these negotiations was to reduce the threat to the United States and its allies from these sys-

tems. I would thus applaud the elimination of these systems unilaterally by the Soviets at this time.

Senator CRANSTON. Have we ever had any intention of really relying on the accuracy of the data that the Soviets provide to us?

General BURNS. The data provided by the Soviets, as specified in the treaty, is offered by the specifying side, as it were. In the text of MOU we have explicitly disassociated ourselves from the accuracy of that data, and the reciprocal is true. We do not depend on that data. That data provides another bit of information for our intelligence community.

Senator CRANSTON. In what way are the onsite inspections that are authorized by the treaty of value to us in the verification process?

General BURNS. The onsite inspections probably will never detect a violation because it would be silly for either side to expose itself to an inspection in which a violation would occur, but what the onsite inspections do do is make it extremely difficult for either side to use its present infrastructure as a covert means of violating the treaty.

It also provides us and the Soviets with clearer evidence of the elimination process of the other side, through onsite inspection during that period, and then it also provides us with relatively high confidence that these facilities will not be used for treaty-limited systems for a period of 10 years. At the end of 10 years, the SS-20 will be about like the French 75. You might use it as a museum piece, but you would never resurrect it to be used in war. It is an obsolete system.

So, that is what the onsite inspection would do during the 13-year period when they will be carried out.

Senator CRANSTON. Do you feel we have about the right amount of onsite inspection authorized? Could we use more or could we get along with less?

General BURNS. Senator, I believe we have about the right amount. You can always argue for a little more. The numbers struck were a balance between the sides. We took into consideration our dislike to have too many Soviet inspectors wandering around our installations for too long a period of time, and I think the Soviets did the same thing.

But I think the numbers we have now are adequate. We have a quota per year, and that quota can be exercised.

Senator CRANSTON. Thank you very much. You have been very helpful.

General BURNS. Thank you, sir.

The CHAIRMAN. Senator Pressler.

Senator PRESSLER. Thank you very much, Mr. Chairman.

I have a few questions.

Let me ask you, was it ever under consideration for the Director of ACDA to request the CIA to study whether the Soviets had used deception and denial with regard to SS-20 production information after 1976?

General BURNS. Senator, I could not answer that question because I do not know what Ken Adelman may or may not have requested. I realize that does not respond to your question, but perhaps you could phrase it a little differently.

Senator PRESSLER. Have you identified any drafting errors in the INF Treaty?

General BURNS. Yes, there were, I believe, five drafting errors which were pointed out to the Soviet side, a couple of them, I believe, during the December summit. I think these are all reported on the flyleaf of the second version of the draft treaty.

Senator PRESSLER. Have they been corrected or have they been reported?

General BURNS. Yes. There is a corrigendum again on the flyleaf, and they are recorded as corrections to the treaty.

Senator PRESSLER. Now, can the Soviets use SS-25 for the purpose of training SS-20 crews?

General BURNS. To a degree they could, just as, I suppose, you could train a 155-howitzer battery on 105 equipment. To a point this training would be useful, but the point would be very early in the training process. I believe that because of the difference in size, it would be important that training take place on the SS-20 itself.

Senator PRESSLER. So, the training could be done, and they could use SS-25's for the purpose of training them.

General BURNS. I would put it this way. It would be possible to maintain some rudimentary level of training in covert SS-20 units by allowing them to train on SS-25 units.

Senator PRESSLER. During the 8 years the Soviets covertly deployed the SS-16, did we detect flight tests?

General BURNS. I am going to have to ask Dr. Eimer to answer that. I am really not sure of the answer.

Dr. EIMER. No, sir, we did not detect flight tests.

Senator PRESSLER. How did the Soviets maintain confidence in the SS-16 without flight testing, and why would this not apply to the SS-20?

Dr. EIMER. Well, there is no way of us knowing how much confidence they, in fact, had in the SS-16, and I doubt if they had very much confidence. They had it out there, or at least they probably had it out there in some kind of a modest state of readiness, but we have no way of knowing how much confidence they had. Certainly near the end they could not have had that much confidence.

Senator PRESSLER. How did the Soviets maintain their confidence in that SS-16 without flight testing? How did they go about that?

Dr. EIMER. Well, again, I do not know how much confidence they in fact had, but I am sure you know that they had the SS-20 out there at the time, and so a certain amount of training could have been done on the SS-20.

Senator PRESSLER. But if they did not flight test it, they somehow—let's assume for a minute they maintained confidence in the SS-16. How would they do that?

I guess the point I am getting at is are there ways of doing it other than flight testing?

Dr. EIMER. Well, I think there are two separate parts. I think that we have to keep the training of the troops somewhat separate from the reliability of the missile. Clearly, the SS-16 was degrading in reliability over all these years, being a solid propellant missile, and when it ended its shelf life, it was just gone, independent of how much training you can do.

Now, it is likely that they could do a certain amount of training of SS-16 crews on the SS-20, that is correct. So, the crews could have been to some extent trained, but the SS-16, we do not know very much about the SS-16, but it probably had a different transporter electronic launcher than the SS-20, so that the training was probably far from complete, if they did in fact do it that way.

Senator PRESSLER. Now, did the Soviets falsify their conventional force data base in the mutual balanced force reduction negotiations?

General BURNS. Well, most probably they did.

Senator PRESSLER. What is your view—they did or they did not?

General BURNS. They did, but they did it by developing their own logic for counting, let me put it that way, which did not match our logic for counting. I would not say that they directly falsified the data they just counted things differently.

Senator PRESSLER. So, do you think that the Soviet falsification was deliberate, or do you think that they were being sincere?

General BURNS. I do not know. I do not have any basis to make that judgment. I think their data was wrong.

Senator PRESSLER. But what is your judgment? You think the data was falsified, but you do not—do you think it was falsified? Let's go back to that.

General BURNS. Well, I think the data was false. Whether it was deliberately misleading or whether the negotiators just did not have access to the actual data, I do not know.

Senator PRESSLER. Do you think the Soviets' purpose, if they did falsify, was to preserve their advantages, or do you think that they just made an honest mistake?

General BURNS. This is conjecture on my part, but I believe that if they deliberately falsified the data, then it was deliberately to mislead. It was not an honest mistake.

Senator PRESSLER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator McConnell.

Senator McCONNELL. Mr. Chairman, I do not have any questions at this point.

The CHAIRMAN. I frankly have no more questions at this time. But I think Senator Helms does, so we will wait a moment for him to return.

[Pause.]

Senator PRESSLER. Mr. Chairman, I have one more question.

The CHAIRMAN. Certainly. Senator Pressler.

Senator PRESSLER. Mr. Chairman, I continue to be troubled by an assessment reported to us by former Assistant Secretary of Defense Richard Perle who stated during his testimony before this committee that the intelligence community, at least prior to the submission of the treaty to the Senate, put the potential for verifying compliance somewhere in the 10- to 20-percent range. Now, this 10 to 20 percent is an astounding figure.

If his understanding is accurate, this is a very serious thing. Now, may I ask, General Burns, was it indeed the assessment of the intelligence community that the potential for verifying compliance was in the range of 10 to 20 percent?

By the way, I read that—this is not classified data. I read it in I think a Washington Post column and in a New York City Tribune article. So, it has been in the public domain.

General BURNS. Senator, the assessments of the verifiability of the treaty were made at various times based on various verification scenarios. I do remember that at any one time that there was the intelligence community assessment. That was not the intelligence community assessment, however, of the verification package which was finally adopted in the INF Treaty.

Senator PRESSLER. That was not the assessment range, although Richard Perle says it was, so I guess that that would be a disagreement; is that correct?

Dr. EIMER. I do not remember that there ever was such an assessment by the intelligence community, and it is not the function of the intelligence community even to make such an assessment, and I do not think they in fact made it. There must be—

Senator PRESSLER. The intelligence community.

Dr. EIMER. Right. Their function is to deal with monitoring, not with verification. So, I do not recall having—and they are pretty careful about that, so whatever that information was that was reported on, I do not believe that it came from some official source within the intelligence community.

Also, they do not—when they do make estimates of various kinds, they do not use percentages.

Senator PRESSLER. What percentage of confidence would you put in the present assessment of verifiability?

Dr. EIMER. Well, we also do not use percentages.

Senator PRESSLER. OK, but if you were asked that question, which you have been, what would you say?

General BURNS. Given the entire verification package, including national technical means, I would say that we have high confidence in the ability to verify the provisions of the treaty.

Senator PRESSLER. And what assessment, what range, what does that mean? Fifty percent, 80 percent?

General BURNS. Well above 50 percent.

Senator PRESSLER. Well above 50 percent.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

Dr. Eimer, do the Soviets put the front ends, I think they call them postboost vehicles, is that correct?

Dr. EIMER. Yes, sir, that is correct.

Senator HELMS. Can they put the front ends and the warheads onto SS-20's and SS-25's after the missiles leave the Votkinsk assembly plant—I guess I pronounced that right, V-o-t-k-i-n-s-k.

Dr. EIMER. Yes, sir.

Senator HELMS. What is that, Votkinsk?

Dr. EIMER. Votkinsk.

Senator HELMS. The assembly plant, after the missiles leave that assembly plant, can they put them on in the field deployment areas?

Dr. EIMER. Well, as General Burns has said, we have a picture from the Soviets of the SS-20 which we believe is what the SS-20

looks like when it leaves Votkinsk, and it does not have a front end, and therefore, that front end has to be added in the field. That is probably the case for both the SS-20 and the SS-25. That is their normal procedure.

Senator HELMS. In other words, they leave Votkinsk without their warheads.

Dr. EIMER. Yes, sir.

Senator HELMS. Can the Soviets produce at Votkinsk and legally send through the INF portal monitoring facility, for example, the SS-25's with three stages and no front end or warhead?

Dr. EIMER. Yes, sir, they can bring a three-stage SS-25 out of Votkinsk.

Senator HELMS. OK.

Can they send the SS-25 with two stages and no front end?

Dr. EIMER. They can send it out—let me try to be precise. Clearly when they bring out an SS-25, we have the right to make sure that it is an SS-25, and we have 100 percent inspection at the gates of Votkinsk. If they come up with a missile which is big enough to be an SS-20, and I think that is the way you describe it, an SS-25 with two stages—we would again have the right to inspect that.

The Soviets have said, and it is probably correct, that the second stage of the SS-20 and the SS-25 is different. So, if they bring out a two-stage SS-25, we would detect that it is a two-stage SS-25 rather than an SS-20.

Senator HELMS. OK.

Now, could the Soviets in the field, we are talking about, put an SS-20 front end with warheads onto the first two stages of the SS-25?

Dr. EIMER. I think they would have to change some hardware, but they probably basically could. I think there is a mismatch because the Soviets have said the second stage of the SS-25 is a different diameter than the second stage of the SS-20. So—but let's say "Yes," they could do it with maybe some adjustment they would have to make.

Senator HELMS. Could we detect their doing that?

Dr. EIMER. Well, you see, they would have to get this two-stage SS-25 out.

Senator HELMS. Yes.

Dr. EIMER. We think any two-stage—to try to get a two-stage SS-25 out of Votkinsk, I think all the alarms would ring from Votkinsk to Washington. We would certainly be concerned about the fact that they had a two-stage system that they were using. But technically they could put the front ends, with some adjustments to the—SS-20, on a two-stage SS-25, but they could not—that would not be a useful missile, if I can. I could go—I would prefer to go into more detail more privately, but they could build them together.

Senator HELMS. But it is not likely we would be able to detect it in any case in that scenario?

Dr. EIMER. No, but I think, as I would be glad to describe, that that would not be a useful, would not produce a useful missile for them.

Senator HELMS. Well, let me go at it another way.

Would the first two stages of the SS-25, which is not covered by the treaty, with an SS-20 front end, really differ in capability from an INF missile?

Dr. EIMER. Yes, sir.

Senator HELMS. It would differ?

Dr. EIMER. Yes, sir.

Senator HELMS. In what way?

Dr. EIMER. May I answer that question privately?

Senator HELMS. Mr. Chairman, I knew I was treading on—I do not want you to answer it publicly. I have the same apprehension you do about it.

I have a few questions that I do not want to take a whole lot of your time, Mr. Chairman, but we are set up back there for closed session, and I think the rest of my questions may be delicate.

If you gentlemen would have just a few more minutes, I would like to talk to you privately.

The CHAIRMAN. Will you move that we go into closed session?

Senator HELMS. I so move, Mr. Chairman.

The CHAIRMAN. Without objection, the committee will move into closed session in the back room.

[Whereupon, at 3:08 p.m., the committee proceeded in executive session to reconvene at 9:23 a.m. March 22, 1988.]

THE INF TREATY

TUESDAY, MARCH 22, 1988

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 9:23 a.m., in room SH-216, Hart Senate Office Building, the Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Helms, Boschwitz, and Trible.

The CHAIRMAN. The Committee on Foreign Relations will come to order. On behalf of our committee I am very glad to welcome today Senator Boren, chairman of the Senate Select Committee on Intelligence, Senator Cohen, vice chairman of that committee, and Senator Bradley, who has done a great deal of work in this field of intelligence and is a distinguished member of that committee.

The committee will receive testimony from these Senators on intelligence aspects of the INF Treaty in open session. Then we will move the committee around the corner, which is why we are meeting in this room, to the Intelligence Committee's hearing room and conduct a further inquiry at the top secret code word level.

The Senate Select Committee on Intelligence plays a most important role in the ratification process. We look to their committee to explore in depth a number of intelligence matters, and the committee has done its work thoroughly.

The Intelligence Committee met yesterday to review its functions, and we look forward to receiving a full report from you.

It is important we receive those judgments before our committee begins its own deliberations, and I would like to express my particular thanks to the Senators for having acted expeditiously to share their judgments with our committee. Thank you, Senator Boren. Thank you all for being with us. Senator Boren.

STATEMENT OF HON. DAVID L. BOREN, U.S. SENATOR FROM OKLAHOMA

Senator BOREN. Thank you very much, Mr. Chairman.

The CHAIRMAN. Excuse me. Is there anybody on the minority that wishes to make a statement? No. Senator Boren.

Senator BOREN. Thank you very much, Mr. Chairman. The Senate Select Committee on Intelligence has been charged, as you know, with the responsibility of providing this committee and, through your committee, to the United States Senate as a whole a report on the ability of the United States to monitor and verify compliance by the Soviet Union with the treaty on the elimination of intermediate-range and shorter range missiles, the INF Treaty.

In meeting this responsibility, the Senate Select Committee on Intelligence has explored in depth not only the immediate intelligence issues raised by the treaty, but also the longer term implications of the treaty, including its relationship to future requirements that may be levied against our intelligence capabilities.

Accordingly, the committee specifically considered the requirements that attend any prospective START agreement. The committee's efforts in preparing this study have been long and comprehensive.

We have followed both negotiations and arms control monitoring on a continuing basis. In our annual budget authorization process, we have focused on U.S. technical intelligence capabilities both now and for the future.

Indeed, for several years, this committee has worked with the executive branch to obtain needed funding for improvements in our technical collection capabilities, while encouraging the intelligence community to use those funds as efficiently as possible.

Over the last 6 months, when the INF talks gained momentum, and finally concentrated on verification issues, the committee's study of U.S. monitoring capabilities has been intensive.

From last September until today the committee has had 14 closed briefings and 16 on-the-record staff briefings on INF monitoring, in addition to many informal additional staff briefings.

Our witnesses have included ranking officials and substantive experts from the CIA, DIA, National Security Agency, intelligence arms of the military services, the intelligence community staff, the State Department, the Joint Chiefs of Staff, the FBI and former defense officials who are leading authorities on arms control.

In addition to these proceedings and many thousands of pages of documents that the committee has studied, our Members and staff have traveled to many of the most important installations where monitoring systems are produced or operated, as well as to the site at Magna, UT, where Soviet portal monitors will be able to observe items entering and leaving a U.S. missile production facility.

In short, we have endeavored to ensure that every issue was fully addressed during the course of our work. The purpose of our unclassified report is to address generally the issues involved in the monitoring and verification process and to describe the role which monitoring and verification plays in the overall assessment of the INF Treaty.

Each of these issues is addressed in detail in the classified report available to each Member of the U.S. Senate, and to whom the work of the Senate Select Committee on Intelligence is ultimately directed.

Mr. Chairman, in our view, the interests of the United States are served by effective verifiable limitations on nuclear weapons. Indeed, such limitations must continue to be pursued vigorously, long after the issue of ratification of the INF Treaty has been resolved.

However, arms control agreements cannot and should not be pursued in a vacuum. Each step with respect to strategic weapons must take into account fully the impact, direct and indirect, on the national security interests of the United States.

Each such agreement must advance the interests of the United States by reducing the threat of nuclear war while maintaining a fully effective defense capability.

It is against this backdrop that each member of the committee, and ultimately each Member of the U.S. Senate, is presented with the question of whether or not to vote to ratify the INF Treaty.

There is no simple answer to this question, and to reach an informed and responsible decision, each Member must weigh many factors of which monitoring capability is only one.

Mr. Chairman, I am here today with Senator Cohen, vice chairman of the Intelligence Committee, and Senator Bradley, whom I requested to take a particularly active role in our extensive review of the INF Treaty and to lead a working group on the verification procedures established by the INF Treaty.

I will now turn the presentation over to Senator Cohen, whose opening remarks will address the threshold major issues raised by verification. And then to Senator Bradley who, as part of his opening remarks, will describe particular aspects of the treaty's verification and monitoring regime.

Then I will conclude this open session by presenting to the committee the key unclassified findings and conclusions of our report.

Mr. Chairman, I am happy to report to you that in a meeting of our committee yesterday afternoon after, as I indicated, after many, many hours of deliberations, both in hearings and in drafting sessions, this report which is presented to you by the Intelligence Committee was adopted on a unanimous vote of the committee.

Mr. Chairman, after we have heard from Senator Cohen and Senator Bradley, and after I review for the committee the key findings of the report, we will then be able to move to the classified portion of our report in closed session, where the key classified findings and conclusions, which track those that will be presented here in open session, will be presented.

We will then be able to respond to any questions that you and any other members of the Foreign Relations Committee may have.

Again, I want to thank you, Mr. Chairman. If I may, I would like to now turn to Senator Cohen, and then to Senator Bradley, and then I will complete our presentation by presenting the summary of the key findings.

[The prepared statement of Senator Boren may be found in the appendix.]

The CHAIRMAN. Thank you very much. I think that is a very orderly procedure. And we will go to Senator Cohen, Senator Bradley, then your recommendations. And then we will recess and go into the bubble, or whatever the room is.

Senator BOREN. Thank you very much, Mr. Chairman.

STATEMENT OF HON. WILLIAM S. COHEN, A U.S. SENATOR FROM MAINE

Senator COHEN. Mr. Chairman, I want to join Chairman Boren in thanking you for asking us to testify before your committee on the INF Treaty.

Before I begin, I would like also to express my thanks to the other members of the Intelligence Committee, Senators Cranston and Murkowski, who also serve on the Intelligence Committee, and in particular Senator Bradley who has devoted a good deal of time to his review of this particular treaty.

And I am especially grateful for the bipartisan support that we have received in this undertaking. I think any major policy interest in which it is necessary to make interpretations based on sensitive intelligence has the potential to be politically explosive. The members of the Intelligence Committee, without exception, have handled the information which has been entrusted to us much of which is very sensitive indeed—in a very responsible manner.

The overwhelming support of the committee in voting for the classified and unclassified versions of our report is, I think, a very strong statement of the integrity of our process.

I would hope that all members of the committee, as well as the Members of the Senate as a whole, will be able to take the time to read our classified report. I believe it is quite balanced and very thorough and has been given high marks by the intelligence community for the way in which it lays out the range of issues and considerations relating to the INF Treaty and its provisions.

As Chairman Boren has indicated, the report concludes that the United States does have the ability to monitor and verify compliance by the Soviet Union with this treaty.

However, while I support this conclusion and I intend to support the treaty on the Senate floor, there are a number of concerns with respect to both arms control verification requirements and overall strategic stability which I would like to address on behalf of the committee.

First, the committee has found that answers to questions of verification are not always straightforward and unambiguous. Most involve making judgments of degree and sufficiency.

Since there is no verification and monitoring regime that can be absolutely perfect, a central focus for the committee has been to determine whether any possible violations would be of sufficient military significance to constitute a threat to our national security interests. This calculus is one of the most important the Senate will consider in its analysis of the treaty.

Second, the committee notes in its report that U.S. intelligence requirements cannot be dictated solely by arms control monitoring needs.

The committee believes that monitoring Soviet activities is necessary not only to verify arms control agreements but also to provide timely warning of possible threats that are not prohibited by the treaty.

Accordingly, the committee paid very close attention to whether our current and proposed capabilities, human, technical, and otherwise, are sufficient to meet current demands as well as emerging future requirements.

When certain systems are limited or eliminated by agreement, other military developments which are perfectly legal under the treaties, take on a significance of their own. A significance which could affect the strategic balance between the United States and

potential adversaries. We must have the capability of monitoring such developments not covered by the treaty.

Now, one of the most challenging tasks the intelligence community could face in the near future is the monitoring of a prospective START agreement.

Under present proposals to cut Soviet and United States strategic nuclear forces, the requirements for United States intelligence would change for several reasons. START negotiations envision a system of limits and sublimits on strategic arms, as opposed to bans by the INF Treaty. Under this regime, significant violations would be more difficult to detect.

Second, Soviet violations could have a greater impact on United States national security than any plausible violation of the INF Treaty.

Third, unanticipated improvements in Soviet strategic offensive and defensive capabilities could make the lower levels of United States strategic forces envisioned in START proposals more vulnerable.

And finally, even in the absence of START, the balance of strategic forces could be undermined or upset by possible Soviet technological breakthroughs, offensive force improvements, or possible breakouts from the ABM Treaty limits.

The committee believes that if the intelligence community is tasked with the requirements to support a START Treaty, without continuous attention to improving our intelligence capabilities the intelligence community may not be able to monitor those requirements well enough to strengthen U.S. security.

Indeed, the burdens of monitoring Soviet military activities that are not controlled, in addition to those controlled by the INF in any START Treaty, could seriously strain the future capabilities of the intelligence community—especially in an environment of limited funding for intelligence activities.

The committee members feel that this potential gap between intelligence capabilities and intelligence requirements must be appreciated by our colleagues in the Senate, and we are therefore bringing it to each Member's attention in connection with the consideration of the INF Treaty.

The last cautionary note I would like to raise on behalf of the committee is that in negotiating an arms control agreement, verification is only one of many objectives that must be served. There are inevitable tensions between the need for effective verification and the desire for strategic stability. I would like to make a number of observations in this regard.

To give you one example, the current U.S. position in Geneva is to seek a ban on mobile missiles, largely because of the verification problems they pose. On the other hand, I think everyone on this committee appreciates that mobility enhances strategic stability by reducing the opportunity for preemptive strikes by either side.

Now, one proposal that I recently advanced in a meeting with General Secretary Gorbachev, at which Senators Cranston, Nunn, Levin, and Simpson were present, tried to address this need to balance our own military needs and verification requirements by banning land-based mobile MIRVed systems.

In the event that our monitoring capabilities did not detect a violation under such a regime, the danger would be minimized. A mobile land-based system that bears only a single warhead which escapes our monitors would be less of a threat to us than one carrying multiple warheads.

Now, we must always keep open the possibility of allowing ourselves the flexibility to adopt systems needed for our own national security, even if this makes verification less certain. Verification cannot be viewed in a vacuum, but rather should be considered balanced with other competing interests for our own security.

Another example of the tension between monitoring concerns and military requirements involves Cruise missiles. In the INF agreement, the United States has sacrificed the right to deploy conventional long-range ground-launched Cruise missiles, so-called GLCM's, against the Warsaw Pact, primarily because the monitoring of the distinction between nuclear and conventional Cruise missiles is quite difficult.

Some of my colleagues on the committee believe that other security interests may have been subordinated to verification considerations on the questions of ground-launched Cruise missiles.

This issue has raised serious concerns among members of the committee that similar considerations relating to verification in the START negotiations could lead to unduly restrictive limitations on future U.S. options for conventionally armed air-launched and sea-launched Cruise missiles.

The tension between monitoring requirements and overall strategic needs is also reflected in the fact that there are no onsite inspection rights provided for undeclared or suspect sites.

This problem is most pronounced with respect to the possibility of covertly stored missiles at undeclared facilities. In this case, legitimate United States security interests argued against allowing the Soviets greater presence and access in the United States than is granted by the treaty.

While at this point we do not know how intrusive the proceedings being discussed in the START negotiations are, our counterintelligence concerns about potential Soviet exploitation of onsite inspection rights may again prove a very serious counterbalance to the need for a more intrusive and direct verification regime for strategic weapons.

Finally, Mr. Chairman, I would like to emphasize on behalf of the committee that our conclusions with respect to monitoring and verification should not necessarily control the final decision of each Senator who must make this decision with respect to whether the INF Treaty should be ratified. Rather, the verifiability of the treaty is only part of the picture.

The weight given to the concerns I have outlined here today is a matter which properly resides with each individual Member as he or she weighs the treaty's ratification. And I would look forward to hearing the questions and concerns of the members of the Foreign Relations Committee on these issues.

But I do feel certain that within the secure Intelligence Committee hearing room we should be able to address whatever matters relating to intelligence information that are important to the committees to consider. I thank you.

[The prepared statement of Senator Cohen may be found in the appendix.]

The CHAIRMAN. Thank you very much, Senator Cohen. Senator Bradley.

**STATEMENT OF HON. BILL BRADLEY, A U.S. SENATOR FROM
NEW JERSEY**

Senator BRADLEY. Thank you very much, Mr. Chairman. First let me say, and offer a compliment to Chairman Boren and ranking member Cohen, who laid out an exhaustive hearing schedule that I think allowed us all to focus on these issues with much greater clarity.

Effective verification, knowing whether or not the Soviets are cheating, is essential to enforcing strict compliance. And good intelligence, monitoring all aspects of Soviet strategic behavior, is the key to effective verification.

The treaty poses a number of questions, such as, between the extremes of blindly trusting the Soviets and trying to follow their every move, what level of monitoring is needed to verify and enforce the INF Treaty? Are U.S. monitoring capabilities good enough to make the INF Treaty effectively verifiable?

To answer these questions, it is helpful to distinguish among functions and sets of officials involved in dealing with suspect violations. In particular, it is helpful to distinguish among monitoring, verification, and enforcement.

Monitoring is the responsibility of the intelligence community, which reports to the National Security Council and to the Congress on what the Soviets do.

To determine what the Soviets do, they use all the information available from United States onsite inspectors, our national technical means, and our other sources of information on Soviet missiles and related activities. That is monitoring.

Verification is the responsibility of the National Security Council, which decides whether the Soviet behavior monitored by the intelligence community is permitted by the treaty, based on the text of the treaty, relevant records, diplomatic exchanges, and applicable law.

Third, enforcement is the responsibility of the President, acting in concert with the Congress, in proposing and pursuing a course of action if a violation is found. Options for enforcement include seeking Soviet compliance by diplomatic means, denouncing the violation publicly, withdrawing from the treaty, and finally in response starting a new military program of our own.

Each enforcement option depends on America having the will to act in the face of a confirmed violation. To do nothing is advisable only if confronting the Soviets with the violations would jeopardize the sensitive intelligence sources and methods on which we rely for detecting even more serious threats.

To be effective, monitors, verifiers, and enforcers will need good information on Soviet intentions, as well as capabilities, in order to make critical decisions. Moreover, to deter the Soviets from cheating in the first place, the United States must reinforce Soviet ex-

pectations that they would be discovered and countered if they did cheat.

In the case of the INF Treaty, detecting any possible violations involves three sets of monitoring requirements. First, assessing the accuracy of the numbers and locations of INF systems declared by the Soviets in the treaty's memorandum of understanding.

Second, observing the drawdown and elimination or destruction of INF systems in accordance with the procedures set forth in the protocol of elimination. Third, detecting any production, testing, or deployment of INF systems.

First, assessing Soviet declarations. With respect to assessing the accuracy of the numbers and locations of forces and systems declared by the Soviets in the treaty's memorandum of understanding, the intelligence community has not resolved significant differences of view over the possibility that the Soviets may not have disclosed their entire inventory of nondeployed SS-20 missiles.

These differences represent valid analytical judgments based on limited and inconclusive information that has been available to the intelligence community.

Whether or not these differences can be resolved in the future, on the basis of new information or analysis, their potential military significance would be short lived.

This is because operational reliability and military utility of any covertly maintained missiles would begin to deteriorate immediately, would seriously degrade during the first 3 years when all declared missiles are being eliminated, and would vanish entirely within a decade unless the Soviets can resume flight testing. But flight testing would be illegal and readily detectable.

The second monitoring requirement relating to drawdown and elimination with respect to declared INF systems, we can expect Soviet cooperation in permitting United States inspectors to observe their elimination, because they will have a strong interest in showing us that they are fulfilling their treaty commitments.

If they fail to cooperate, we will know well before we have eliminated all our INF systems and we could retain them until the Soviets cooperated. By fully implementing the inspection protocols of the INF Treaty, the United States will not need to rely on national technical means to verify the complete elimination or destruction of Soviet's declared INF systems.

The third monitoring is detecting illegal systems and activities. At the same time, U.S. intelligence must also seek to ensure that there are no illegal INF systems that should have been declared, or no illegal INF systems that have been covertly stored, diverted, tested, or produced in violation of the INF Treaty.

In contrast with Soviet interest in showing our inspectors their declared inventories of the INF systems and their elimination, we have to expect the Soviets to try to conceal any illegal systems or activities. That is why the United States must be able to monitor Soviet missile related activities, no matter how well concealed.

In particular, verifying the INF Treaty's ban on all Soviet ground-based missiles for weapons delivery with ranges of 500 to 5,500 kilometers will require us to monitor Soviet missile testing, production, and deployments with the best national technical means available.

Yet even with the best technical means in the world, the United States cannot expect to discover every prohibited activity that the Soviets have plausible incentives to conduct clandestinely.

Concealing a few small illegal activities or assets is just too easy in a closed society like the Soviet Union. However, there is little apparent advantage to the Soviet military commanders and certainly significant risks and costs in developing any covert forces that cannot be exercised realistically or tested fully, because they must remain strictly concealed all the time to minimize the chance of detection.

Moreover, the INF Treaty's ban on testing of any ballistic missile for weapons delivery with ranges of 500 to 5,500 kilometers, that can be monitored with high confidence.

This makes it exceedingly difficult, costly, and risky for the Soviets to develop or maintain a militarily useful covert force of ballistic missiles, especially longer range missiles which violate the INF Treaty.

At worst, a Soviet short-range ballistic missile might be tested to a range of slightly over 500 kilometers, without being verified, as a treaty violation. But the Soviets could have little to gain and much to lose from conducting such a test.

U.S. national technical means of verification are not as highly effective against ground-launched Cruise missiles within the ranges of the treaty, which are likewise banned by the treaty.

In particular, an illegal force of GLCM's, ground-launched Cruise missiles, could probably not be detected nearly as promptly nor with the same high degree of confidence. This is due to their much smaller size and to the fact that they are in almost all respects identical and virtually indistinguishable from sea-launched versions of the same missile, which are not banned by the INF Treaty.

Still, any militarily significant training or deployment of covert ground-launched Cruise missiles would be subject to detection by the United States. Why?

This is because it would necessarily involve a sizable number of troops and technicians, as well as special security arrangements associated with highly sensitive activities, especially the illegal training and deployment of nuclear-capable missile forces.

Moreover, in contrast with the SS-20, the Soviets have never developed the infrastructure for such a force of ground-launched Cruise missiles. And if they did, we could detect them.

So, the Soviets could not have much confidence that they could maintain or deploy a ready, ground-launched Cruise missile force banned by the INF Treaty without being caught.

Mr. Chairman, let me make just two comments about any future arms reduction monitoring requirements. With effective United States verification of arms reduction treaties, it is the areas not limited by treaty where Soviet strategic competition is likely to be most active.

That is why U.S. national security policy should be as concerned with the continuing dangers of legally permissible activities as it is with those newly prohibited by treaty. Whether or not the Soviets comply strictly with every provision of the INF Treaty, Western security interests could still be threatened.

For example, if the Soviets produced greater numbers of unbanned long- or short-range missiles, test and develop new directed energy beam type weapons, or deploy more modern offensive conventional forces.

And even after a START agreement, which cuts the number of ballistic missiles by a large margin, United States security could be undermined by possible Soviet breakthroughs in areas that could be unconstrained by arms control.

With fewer ballistic missiles, the United States should put a larger premium on timely, accurate intelligence on particular developments which threaten the survivability and performance of the U.S. remaining strategic forces.

And here I have in mind antisubmarine warfare, air defense systems in particular pertaining to Cruise and penetrating bomber technology, and antisatellite developments.

Maintaining confidence in arms control treaties, and deterring Soviet violations, will also require more resources devoted to analyzing Soviet society and monitoring Soviet behavior.

These intelligence costs will detract from any savings due to arms reductions. But the more our security depends on fewer arms, the more it is necessary to reassure ourselves and persuade the Soviets that significant violations will be caught and effectively countered. I, for one, would pay the premium for greater security through mutual arms reductions.

So, Mr. Chairman, in conclusion, the INF Treaty is a major milestone on the road toward greater security with fewer nuclear arms.

Moreover, it will be effectively verifiable so long as improvements in U.S. national technical means keep pace with any new requirements raised by a START Treaty or a future conventional arms reduction agreement.

[The prepared statement of Senator Bradley may be found in the appendix.]

The CHAIRMAN. Thank you very much, Senator Bradley. Now I believe Senator Boren has some positive recommendations of an unclassified nature.

Senator BOREN. Thank you very much, Mr. Chairman. I will return now to summarizing the findings of the committee in the report.

I want to again thank my two colleagues who have spoken this morning, the vice chairman, Senator Cohen, and Senator Bradley, who as you can tell have contributed immeasurably to our committee's deliberations.

As both have indicated, verifiability is not a simple matter. We are not talking about a simple yes-or-no answer to the question of whether or not a treaty can be verified.

We are talking about degrees of confidence. We are talking about possible motivation to cheat, the military significance of any cheating, and the degree of certainty that U.S. intelligence will have in detecting any cheating that might occur.

We are talking about only one aspect of the treaty, when we talk about verification. We have to consider other competing national security needs, the need to specifically develop our own military capabilities even if they make the task of verification more difficult.

And we are talking certainly about broader intelligence responsibility that our committee has, which we must consider when we talk about verification. Because as Senator Bradley has just indicated, if some weapon systems are reduced, those that remain and are still legal take on new significance.

We must have the capability of not only monitoring the items covered by a treaty, but also the capability, from an intelligence point of view, of knowing what actions the Soviets are taking with respect to those systems that remain legal and any technological breakthroughs in the future that would affect the United States-Soviet strategic balance.

So, we have a very complicated task, and in presenting this report to the Foreign Relations Committee, we do not presume to make a recommendation as to how your members should vote on the treaty in the last analysis.

As Senator Cohen, Senator Bradley, and I have said, that is a judgment that each Senator must make, and verification is but one of those factors that must be weighed.

I want to join Senator Cohen in thanking Senator Cranston and Senator Murkowski, members of your committee who serve on the Intelligence Committee. Both have been very diligent; they have participated widely in our deliberations and have made a real contribution to them.

I am pleased, as I indicated, to report that the findings which I am now going to present to the committee are the unanimous findings of the Intelligence Committee. They are presented, in the best spirit of bipartisanship, in the hope that you will find them helpful and objective in the way in which the facts are stated.

So, let me now go to the unclassified summary. The classified summary, of course, will also be available to you as will the entire classified report.

The CHAIRMAN. Might I interrupt and ask one question here. The unclassified summary will basically include the main elements of the classified summary.

Senator BOREN. The chairman is correct, yes. The unclassified summary which I am now giving tracks at some point, of course of necessity in a more general way with less specificity, the very same conclusions that are contained in the classified report.

Senator BOSCHWITZ. Mr. Chairman, may I ask, is our committee going to go to the Intelligence Committee at some point?

The CHAIRMAN. Yes. Immediately after Senator Boren gives his conclusions.

Senator BOSCHWITZ. After this.

Senator BOREN. I would suggest, Mr. Chairman, that I might one by one list the—

Senator HELMS. Will the Senator withhold just a moment. Is there going to be no time to question in public these three distinguished Senators?

You know, I have questions related to unclassified material. So, is this it? These statements, and then we go up there?

The CHAIRMAN. That is what I thought. If there is any pressing question you want to ask, do so now. But otherwise, if we go back, we have got the classified briefing, and ask our questions there, then we may have used up the morning.

Senator HELMS. Well, I think the American people are being left out of a lot of things.

In the first place, fundamentally, let me say to my friends that verification is the responsibility of this committee. Monitoring is the responsibility of your committee.

I had to leave, Bill, or I felt that I was obliged to leave while you were making your statement because of the defecting Panamanian pilots up there, and they were telling us, a few of us, about the enormous shipments of Soviet weaponry into Panama. And they just would not have any more of it.

This pilot in particular flew three missions, and then he defected. And there were 13 more scheduled. Is the Intelligence Committee looking into that?

Senator BOREN. We are certainly following the entire situation in Panama.

Senator HELMS. You might want to confer with him. Well, Mr. Chairman, so what you contemplate is for Senator Boren to make his unclassified comments, and then we, this is the end of this hearing as far as the public is concerned.

The CHAIRMAN. That was my hope. If there is anything very pressing that—

Senator HELMS. Well, I think it is all pressing.

The CHAIRMAN. Well, it is. But—

Senator HELMS. Because the American people just do not understand this treaty, the implications of it. And I wish we could, well, I will defer to the chairman.

But I would ask, Mr. Chairman, that a statement, which I will not make, be included in the record subsequent to your own opening statement.

The CHAIRMAN. That will be done, inserted in the record as if read. Thank you.

Senator HELMS. Very well. I thank the Chair.

[The prepared statement of Senator Helms may be found in the appendix.]

The CHAIRMAN. Senator Boren.

Senator BOREN. Mr. Chairman, thank you very much. Let me say to my good friend and colleague, Senator Helms, that one of the reasons why the committee felt very strongly that we should attempt an unclassified summary of our report for public release, as well as the classified document to the Senate, was for the reason that the American people should be informed of our findings. And we have attempted to do this.

After hearing these findings, I am hopeful that the committee will feel that, by presenting them in this manner, we have allowed these conclusions, and something of the process we followed and our reasoning, to be presented to the American people. This is an important judgment which they also make, as we represent them here in this process.

So, let me go through, one by one, the summary of the unclassified findings at this point. The key unclassified findings and conclusions of the committee are as follows:

First, the committee believes that by a combination of national technical means and onsite inspection, the intelligence community will be able to monitor the drawdown and elimination of declared

Soviet missile launchers and associated equipment with great certainty.

Second, the committee notes, that the onsite inspections established by the treaty are applicable only to facilities declared by the Soviets in the memorandum of understanding.

Therefore, the burden of detecting banned activities at undeclared sites, where they are most likely to occur, will fall on national technical means of verification.

In other words, if the Soviets are likely to cheat, it is very unlikely they will do so at declared sites where we have the right of onsite inspection. And therefore, any detection of this potential cheating falls heavily on national technical means of verification.

Third, the specific requirements imposed by the treaty, including the bans on production, flight testing, and storage, will limit the ability of the Soviets to maintain nondeployed missiles in a high state of readiness. These provisions increase both the probability of detecting cheating and the cost of cheating for the Soviets.

At the same time, however, Soviet compliance with some of the treaty's provisions will be difficult to monitor. In other words, we focus upon the ban on flight testing as a very important provision. If there are any hidden missiles they will become far less reliable because of the inability of the Soviets to test them.

Fourth, the problem which I have just mentioned is exemplified by the unresolved controversy between the Defense Intelligence Agency and other intelligence agencies over the number of SS-20's in the Soviet inventory.

It is widely known and has been publicized that there is a variation in terms of the estimate of the number of missiles that may exist. In any event, the treaty's ban on flight testing will over time limit the military utility of any SS-20's that the Soviet Union might covertly maintain.

What we are saying is that even if we were to decide that the highest figure for SS-20's were accurate, indeed if any such missiles were hidden away, their military utility would greatly deteriorate over time as they would not be allowed to be flight tested under the treaty.

Fifth, at the same time, the committee notes that the flight test ban is uneven in its application against weapon systems eliminated by the treaty.

It is effective in limiting the military reliability of a covert SS-20 force, but far less relevant to ground-launched Cruise missiles and shorter range ballistic missiles, as has already been indicated by Senator Cohen and Senator Bradley.

Sixth, ground-launched Cruise missiles pose a particularly difficult monitoring problem as they are interchangeable with long-range Soviet sea-launched Cruise missiles.

So long as the sea-launched Cruise missiles are not banned, their testing will allow a Soviet military planner to fulfill all the technical requirements for testing a covert, ground-launched Cruise missile.

The lack of a ground force infrastructure for such weapons, however, would be extremely difficult for the Soviets to overcome covertly. This greatly lessens the value and probability of such a cheating effort.

Seventh, we are concerned that the Soviets could covertly extend the range capability of a Cruise missile, or overtly develop a new ground-launched Cruise missile with a prohibited long-range capability, if the Cruise missile were tested to only shorter ranges.

Yet the committee believes that the risk of a Soviet attempt to cheat with such an extended range capability is offset by Soviet operational requirements.

Soviet military planners would have serious problems with the reliability of systems not tested to their maximum range.

So, while they might develop systems with longer ranges that would be very difficult to detect, since they are only allowed to test them to shorter ranges, they would again not have very high confidence in the reliability of those systems at longer ranges for which they had not been tested.

In the case of short-range ballistic missiles, the committee does not foresee the need for the Soviets to cheat, since they can easily and legally develop a new or modernized short-range ballistic missile with a demonstrated range less than 500 kilometers.

So, they would have no motivation really to cheat because they have the right under the treaty to develop new systems with ranges under 500 kilometers.

Moreover, the Soviets could not test any short-range ballistic missile much beyond the 500-kilometer limit without the United States detecting the violation. So again, we do not think there is much likelihood of an actual problem occurring in that area.

Eighth, the committee believes that in the absence of a START agreement, the Soviets will have little or no incentive to cheat. With 10,000 warheads in their strategic arsenal today, the Soviets can cover INF and global targets and still have several thousand warheads in reserve.

I think this is a very important point, Mr. Chairman. And I want to emphasize that, and as I list these points it will become clear to the committee that we have tried to view the INF Treaty under two circumstances.

One, an INF Treaty by itself, standing alone, and in that case as I have indicated by this finding, we feel there is going to be very little incentive to cheat.

The Soviets legally have many thousands of long-range missiles that can be retargeted against theater targets. In addition, we have the flight test ban, on-site inspection and many other features that would make it highly unlikely for the Soviets to cheat in an INF-only environment.

We have also tried to focus on what would be the degree of verifiability of an INF agreement, if a START agreement were superimposed on top of it.

So, there are really two major thrusts of our report. The first, as you have been able to determine, finds a satisfactory level of verifiability for the INF Treaty in itself, and now I will begin to move into points that apply to what would happen if we superimposed a START agreement on top of an INF agreement.

In an INF-START environment, the monitoring, cheating, and risk calculus changes substantially. The Soviet incentive to cheat could increase because of a greater difficulty in meeting targeting

requirements. The military significance of any cheating will increase because of lower U.S. force levels.

Again, to emphasize, with INF by itself, with over 10,000 legal ICBM warheads that can be retargeted against theater targets, the Soviets would have little incentive to cheat.

But if we had a very large drawdown in the number of legal missiles, and warheads making it more difficult for the Soviets to cover all targets, there would of course be a greatly increased incentive to cheat in that kind of environment.

Yet, the Soviets would have greater difficulty maintaining a covert force of intermediate-range ballistic missiles in a START regime with new limits on road-mobile strategic ballistic missiles and new provisions for short notice inspections of undeclared facilities.

The monitoring of numerical limits, rather than a ban, and of qualitative restrictions, will make the satisfaction of collection requirements, and therefore the detection of cheating, far more difficult in a START environment. Because we are not dealing with total bans of systems, we are dealing with just reductions in systems.

The U.S. intelligence community must be prepared to meet two priorities under a START environment, where the United States and the Soviet Union have agreed to reduce their strategic offensive forces while also complying with the INF, ABM, and other arms control treaties.

The first involves monitoring those weapon systems and activities limited or banned by arms control treaties. The second involves military activities which are not limited by treaties, but which take on added importance as a result of their constraints.

This is exactly the point that my two colleagues were making a while ago. When you reduce the number of long-range nuclear missile systems available, all other military programs that are now lawful take on increased significance.

And we must be able to adequately monitor what the Soviets are doing in the areas that are legal, because they might achieve a breakout in those legal areas that would greatly impact the military and strategic balance and affect our national security interests.

So, a START Treaty not only puts greatly increased burdens on monitoring compliance of the agreement itself, but it puts vastly increased burdens on the intelligence community to monitor other kinds of Soviet military developments as well.

By cutting strategic offensive forces on both sides by roughly 50 percent, a START agreement would raise the importance of intelligence on Soviet developments in other areas that would threaten the survivability and effectiveness of scaled-back United States forces.

Indeed, it is the potential combinations of simultaneous developments in Soviet strategic offensive and defensive forces, particularly its capabilities against United States satellites, ballistic missile launchers, and Cruise missiles, that raise the most urgent concerns about threatening shifts in the strategic balance between the Soviet Union and the United States. Moreover, it is in areas not

limited by the treaty where such Soviet efforts are likely to be most active.

I come now to a very important point, Mr. Chairman, and one on which the committee has very strong feelings. Let me just read this finding:

The committee accordingly recommends that Congress authorize and appropriate funds required to initiate a long-term program to modernize and improve upon current plans for intelligence collection.

It specifically recommends investing more in programs that would be most helpful in verifying a START Treaty, in preventing technological surprise, and in supporting U.S. policy and operations in crisis.

Let me emphasize, Mr. Chairman, if there is even the possibility that we may have a START agreement in the near future, it is absolutely imperative that we begin this process right now to modernize and improve our national technical collections means of verification.

It is very important, even for the sake of adequately monitoring an INF Treaty, that if a START Treaty is imposed upon it and the requirements are added to the INF Treaty itself, that we begin immediately to improve this capability.

Finally, Mr. Chairman, many of the details regarding the precise nature of inspection rights provided under the terms of the INF Treaty are still being negotiated. This is another area to which we obviously gave considerable consideration. I am talking about the onsite inspection by the Soviets in this country, for example.

A constructive process has been put in motion to secure U.S. objectives in these negotiations, although this has not yet been achieved. As the committee knows, we are still in discussions with the Soviets about some of the fine details of what each side will be able to do with the onsite inspection under the INF Treaty.

This is being still negotiated. So, we are not able to reach a final conclusion as to all the program that has been worked out. What we can say is, our people seem to be sensitive to the right kinds of concerns. We do have a process ongoing in which they are negotiating out the details with the right values in mind.

The extensive onsite inspection and portal monitoring that may be required by a START agreement, however, including suspect site inspections, could have a far more significant impact on U.S. counterintelligence and security interests than those agreed to in the INF Treaty.

Again, Mr. Chairman, we are thinking of a situation in which START were imposed upon INF. We would have many, many more sites potentially that would be subject to onsite inspection.

That, of course, creates a greater burden on U.S. counterintelligence capabilities to make sure that that onsite inspection process is not misused by the other side to simply try to gain information to which they are not entitled.

This summarizes the unclassified version of the findings of the committee. We go, of course, into more specificity in talking about specific systems in the classified version of the report.

But I think overall, if I could summarize, the Senate Intelligence Committee believes that there is a very satisfactory level of monitoring capability in terms of the INF Treaty.

However, we have grave concerns about the ability to monitor even the INF agreement if a START agreement is superimposed upon it, unless the United States takes adequate steps to modernize and strengthen its national technical means of verification to ensure compliance, and strengthens its means of detecting other military developments which would take on new significance in a START environment.

This summarizes the findings of the committee in this area.

The CHAIRMAN. I thank you very much indeed. And I think we are particularly grateful to you for saying that the tracking of the classified version follows this outline here.

Now, I would imagine, we should move to the more secure area.

Senator TRIBLE. Mr. Chairman, may I just say a word of thanks to our colleagues for their very fine, thoughtful presentation.

And I would like to ask you your plans for the markup of this treaty. How do you see this week unfolding, Mr. Chairman?

The CHAIRMAN. I see it unfolding that after the Armed Services have reported to us this afternoon, or Senator Nunn himself, then that we would talk about the procedure.

I have sent each Member a memorandum of a suggested thought, it is not in concrete at all. And if we could agree on that procedure this afternoon, then we would proceed to the markup for the rest of the week, perhaps moving into evening sessions if it seemed advisable. And hoping to markup by Friday.

Senator BOSCHWITZ. Mr. Chairman, I would like to ask how long do you think we will proceed in S-219 or S-216, whichever the room is? I have to go and give a talk about a farm bill that Senator Boren and I introduced. And I also want to go to the floor about the civil rights——

The CHAIRMAN. I would imagine it would be at least an hour that it would take, or a little longer.

Senator BOREN. Different kind of silos that we are talking about.

Senator BOSCHWITZ. Different type of silos; yes.

The CHAIRMAN. Any other questions? Senator Helms.

Senator HELMS. I too want to thank our distinguished colleagues for their excellent statements. And I am not sure that nuances of all that was carefully prepared are readily evident, unless you are watching and unless you know a little bit about the flaws in the INF.

For example, Senator Boren in his discussion that he has just concluded, he emphasize the word "declared Soviet missile launchers" and associated equipment. Therein lies a great handicap.

And I particularly appreciate, Senator, your comments about the imperative nature of improving our intelligence capability. You can tell that I am choosing my words carefully.

In my judgment, I am not as optimistic as you are. We can monitor what the treaty says we can monitor, and what the treaty says we can monitor is what the Soviets say we can monitor. I understand that is a two-way street. But the duplicity of the Soviet Union is a matter of record.

I just hope that all Senators who are looking at this treaty through rose-colored glasses are not being overly optimistic. But I wish we could talk in public about the SS-20's and how many they

have, the differences in the various intelligence agencies' assessments.

But I guess we would be spending time that the Senators would rather spend otherwise. But I still feel that the American people are not aware of the pitfalls in this treaty. But maybe we could work that out in the closed session. And I thank all three of you for your fine comments.

The CHAIRMAN. Thank you. I join in our gratitude to you. The committee will now recess and go out that door there around the corner. The hearing will be at code word level. So, staff should be advised of that.

[Whereupon, at 10:20 a.m., the hearing was recessed, to reconvene at 2:05 p.m., the same day.]

AFTERNOON SESSION

The committee met at 2:05 p.m., in Room SH-216, Hart Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Sarbanes, Cranston, Kerry, Adams, Helms, Lugar, Kassebaum, Boschwitz, Pressler, Evans, and McConnell.

Also, present: Senator Wirth.

The CHAIRMAN. The Committee on Foreign Relations will come to order.

We are glad to welcome the chairman and ranking member of the Armed Services Committee, Senators Nunn and Warner.

I know that the two Senators before us now and other members of the Armed Services Committee have explored many aspects of the treaty pretty thoroughly. It will be important to receive their views on the implication of this treaty for NATO and with regard to our own defense programs.

Senator Nunn and I had the opportunity last month to visit the capitals of several of our NATO allies with three other Members of the Senate, including the distinguished majority leader and including Senator Warner, who is with us today.

We received firsthand the views of our allies on this treaty, and I am pleased to find that the nations that are joined with us militarily in NATO support the treaty. Indeed, they view it as a collective achievement and are eager for additional arms control measures, particularly with regard to agreements in conventional arms reductions and chemical weapons.

Speaking personally, I see this agreement as being a relatively modest one, with a primarily political impact. It is a long overdue, initial start of a continuum in arms control that could set the stage for a solid, comprehensive agreement to reduce strategic offensive arms.

I know that Senators Nunn and Warner and other members of this committee share the hope that the way will be open before too long for a good START agreement, which will clearly enhance our national security to a greater degree than does this.

Senator Helms.

Senator HELMS. Mr. Chairman, I thank you very much and I join you in extending our welcome and our appreciation to our two dis-

tinguished colleagues and friends. It is a pleasure to have them here and to hear their opinions.

However, I think I am correct in my impression that the Armed Services Committee has not yet prepared its report.

Now, I value, treasure, and respect the opinions of our colleagues, but I think it is fair to say that we will not have before us this afternoon the considered deliberations of the entire Armed Services Committee. Since the military implications of the treaty are, in fact, a paramount factor, I find it difficult to understand that we are scheduled to go on to markup without getting this considered report from the Armed Services Committee.

As a matter of fact, it was a week ago, at our hearing with Secretary Shultz, that the distinguished chairman reaffirmed that Senators Nunn and Warner would present today the committee's report. I certainly don't fault you for the report not being ready. I know that it is a complex subject, one that is going to require a lot of time.

As a matter of fact, I came over on the trolley just a minute ago with another member of the Armed Services Committee, and he said it would be some time before you were able to sift out all of the information that you had obtained through the hearing process.

This treaty is a very complicated topic, and more and more issues keep emerging as we examine intelligence data and the negotiating record.

Just this morning, Senator Boren, sitting where you are sitting, Senator Nunn, stated in open session his committee's conclusion that the treaty can be verified only with regard to declared missiles and declared sites.

Now, this leaves wide open the military significance of a covert force. Yet here we go, apparently ready to move into markup, without the benefit of a considered report from the Armed Services Committee.

I will say, as one Senator, that I need that report before I can make an intelligent decision on the treaty.

So, that is why the central question of whether we can tell how many SS-20's the Soviets have produced is so important.

If we don't know the base number, we don't know the Soviet military plan. We don't know their targetting requirements or practices and if we don't know the base number, we can't tell whether the Soviets will have destroyed them at the end of 3 years or not.

They could destroy, say, 650 SS-20 delivery vehicles and still have another 650 in their hip pocket.

The secondary questions are related to the questions of the number. Can we be certain how many SS-20's the Soviets will destroy?

Can we be certain that the Soviets will not produce new SS-20's or equivalents?

Can the Soviets hide a covert fleet of SS-20's? If so, can a covert fleet remain dependably operational?

These are important military questions which your committee is best qualified to comment upon.

The central problem in the estimates is that the SS-20 is a mobile launcher with reloads, and we can't tell how many reloads are hidden in a field or nearby. The Soviet practice has been to have many reloads, and I am sure that the distinguished chairman of the Armed Services Committee is aware of this.

For example, in the memorandum of understanding, the Soviets declare 726 SS-12's for 115 launchers, and that is 6-to-1, roughly. Even the MOU numbers for the SS-23's are more than 2-to-1, which is more than our unclassified estimate.

So, Mr. Chairman, I do hope that we will proceed cautiously and get all the essential and imperative information at hand before we move inordinately fast.

But, I do want to say again to Senator Nunn and Senator Warner, that I deeply appreciate their coming today and I look forward to hearing their comments.

Thank you, Mr. Chairman.

Senator WARNER. Senator Helms, if I might reply, I think Chairman Pell and Chairman Nunn, in good faith, tried to schedule these hearings—

Senator HELMS. I know that.

Senator WARNER [continuing]. In such a way that the Armed Services Committee report would be available, together with our testimony.

As my chairman will soon recite, the magnitude of the work that we undertook in our special area of jurisdiction was such that we simply could not get the work done in time for this hearing. We wanted to provide the members of the committee a second opportunity to express their concern on a whole series of items. We will be doing this tomorrow, and then the report can be drafted to reflect the divisions within the committee on these items.

I anticipate that report will be finished in a week or 10 days, and I do hope it will be completed prior to completion of your markup.

Senator HELMS. I agree absolutely.

I appreciate your comment in that regard. I am just saying that we do need it before we get into the markup; otherwise, we can make some serious mistakes that it would be difficult to rectify.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Cranston.

Senator CRANSTON. First, I would like to welcome the two witnesses. I know their testimony will be very, very helpful. I do want to clarify and I think correct one statement that was made by the Senator from North Carolina.

He said that Senator Boren, sitting there, stated that his conclusion or the Intelligence Committee's conclusion was that we can only verify in regard to declared matters from the Soviet Union.

Let me read what he said exactly on that point.

What he said exactly on the point was that with onsite inspection, we can only inspect and verify where there are declared weapon systems, but we have other means, and specifically he referred to national technical means of verification, where there is not a declaration.

What he exactly said was the following:

The committee notes that onsite inspections established by the treaty are applicable only to facilities declared by the Soviets in the memorandum of understanding. Therefore, the burden of detecting banned activities at undeclared sites, where they are most likely to occur, will fall on national technical means of verification * * *

And we do have those means.

The CHAIRMAN. Thank you very much, Senator Cranston.
Senator Nunn.

STATEMENT OF HON. SAM NUNN, A U.S. SENATOR FROM GEORGIA AND CHAIRMAN, SENATE COMMITTEE ON ARMED SERVICES.

Senator NUNN. Thank you very much, Mr. Chairman and Senator Helms and the other distinguished members of the committee. I am delighted to have a chance to be here today with the Foreign Relations Committee.

Senator Warner has correctly stated that we had hoped, when we originally set this date several weeks ago, that we would be prepared to speak for the whole committee. But Senator Helms is correct, that we are not speaking for the whole committee. We are here in our individual capacities.

I am appearing this afternoon as chairman of the committee, but I am speaking only for myself. The points that I will make this afternoon will be points that I will recommend to the committee. But the committee has not acted on these points, and Senator Warner has, I think accurately, described our plans.

Mr. Chairman, Senator Helms, we didn't get through our hearings with Ambassador Glitman until about 4 or 4:30 Friday afternoon. We still have two important areas on which we have not finished all of the testimony that may be required, and I would hope we could get that testimony very quickly. It depends on the markup tomorrow.

We call it a "markup," but it is nothing but an exercise on the report. We don't have a bill or any kind of treaty before us. So, we will be discussing the report tomorrow.

We will have 10, 15, or 20 items that we will go through tomorrow afternoon and, if necessary, Thursday, and we hope that, just as soon as we can get through those items, we will be able to send you a report.

But I am sure it still will be sometime next week before we will finish our committee report.

Let me begin with the context of the Armed Services Committee's inquiry.

Last year, the committee undertook a major series of hearings on national security strategy—a subject which the committee felt, and still feels, receives far too little attention, both from the Congress and from our entire U.S. defense community.

This year, with the submission of the INF Treaty provided the committee with the opportunity to follow up on those strategy hearings, with a focus on NATO strategy, in particular, with a focus on what NATO will face in the post-INF period.

The majority leader and the chairmen of the Committees on Foreign Relations, Armed Services, and Intelligence agreed that the three committees would work together on the Senate's review of

the treaty, which you have before you, Mr. Chairman, recognizing that the Foreign Relations Committee has primary jurisdiction.

The majority leader's coordinating group also decided that each of the three committees would provide reports to the Senate within their committees' specific areas of expertise. In my opinion, the level of cooperation between the Intelligence Committee, the Foreign Relations Committee, and the Armed Services Committee has been excellent and, I think, a model for future ratification proceedings.

Mr. Chairman, I thank you so much for your consideration and your patience in dealing with us.

Over the last 2 months, the Armed Services Committee has conducted 28 hearings on "NATO Defense and the INF Treaty." The committee examined such topics as NATO strategy, the conventional balance, the alliance resource policy, conventional arms control proposals, and tactical nuclear weapons modernization.

Our witnesses included the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, as well as the Service Chiefs, the Supreme Allied Commander, Europe, General Galvin, and such distinguished outside experts as Dr. Schlesinger, Dr. Kissinger, Dr. Brown, Dr. Brzezinski, and Dr. Kirkpatrick.

All hearings and witnesses are listed in an appendix to my prepared statement, which I would ask be printed as a part of this record.

The CHAIRMAN. Without objection.

Senator NUNN. The unclassified proceedings of the Armed Services Committee hearings and meetings will be published by the committee in four volumes.

We are pleased, Mr. Chairman, to provide the first volume to your committee this afternoon. The three remaining volumes will be published prior to floor action on the treaty.

In mid-February, the committee turned its attention from the broader issues of strategy and resources and began to focus on the treaty itself. We devoted substantial effort to establishing an authoritative baseline as to the meaning of the treaty.

The majority and minority staffs conducted a comprehensive review of possible ambiguities or uncertainties in the treaty text. We identified 135 questions where clarifications were deemed necessary. In 4 painstaking days of hearings with Ambassador Glitman, the committee went through the treaty on an article-by-article basis, and we elicited detailed answers to these and other questions.

This review included a preliminary review of the issues in the treaty negotiating history.

Last Friday, the committee conducted an 8-hour closed hearing on that subject.

As you know, the INF negotiating history was not available for review until late last month, and it is quite lengthy and voluminous.

The administration has provided the Senate with 31 binders of documents, 10 times the volume of the ABM Treaty negotiating history submitted to us in 1986. I don't know how many of you have been through the ABM record, but multiply that by 10 and you have the INF record.

We will continue to review these documents until the treaty is acted upon by the Senate.

We also reviewed in a closed hearing certain highly classified Department of Defense programs and any possible impact on them related to the treaty.

That is one area on which we may have to have another hearing and review, but I don't think it would take long. But we may have to go a little further into that very important area.

It is first important to examine the broader overall context within which this INF agreement must be considered. The context is principally shaped by two interrelated factors: The military strategy which the alliance has established for maintaining deterrence and provide defense, and well as the capabilities of NATO to implement that strategy.

More than two decades have passed since NATO adopted its strategy of flexible response, including forward defense. Flexible response has explicitly envisioned the possible use of tactical and/or strategic nuclear weapons in the event of a Soviet-Warsaw Pact conventional attack in Europe which could not be contained by nonnuclear means.

"Forward defense," in the NATO context, means defense as near to the inter-German border as possible, with the aim of losing as little West German territory as possible.

Although NATO deterrence has worked—we have not had a war, and that is the best evidence—the sad reality is that the alliance has failed to implement the flexible response strategy effectively, primarily because the first leg of flexible response; that is, conventional defense, remains inadequate to this day.

As a result, the nuclear threshold remains, in my view, dangerously low. NATO today relies on the early use of nuclear weapons to deter both nuclear and nonnuclear attacks.

I suspect, Mr. Chairman, if you had a poll—and I have not seen one, so this is conjecture on my part—if you asked the American people and the public in Europe if they envisioned or would approve of the United States and our allies using nuclear weapons at the early stages of a conflict in response to a nonnuclear attack, you would have a very resounding "No." But that is, today, the strategy of NATO and it has been for many years.

So, that is the context in which we have to view the overall flexible response.

The second leg of the NATO triad, that is, theater nuclear weapons, has traditionally suffered from limited public and official support. Although alliance solidarity permitted the INF deployments, the consensus on modernizing theater nuclear forces again appears to me to be eroding.

Indeed, at the recent NATO summit, our leaders apparently found it inadvisable to even use the word "modernization."

In summary, Mr. Chairman, in 1967, 21 years ago, flexible response was a new doctrine, a new strategy; it sought to move NATO away from an overdependence on strategic nuclear retaliation.

But, paradoxically, only at the strategic nuclear level has the alliance maintained an adequate force.

Although flexible response remains conceptually sound, the critical gap between the goals of the strategy and the force capabilities available to achieve this strategy poses substantial dangers for the alliance.

I think it is way past the time for the NATO countries and the NATO leaders to ask themselves some very basic questions. For example, how is it that NATO, whose member states collectively outspend Warsaw Pact countries on defense and have nearly three times the gross national product, has been unable to provide sufficient capabilities to implement its military strategy?

In part, the answer can be found in NATO's unwillingness to organize and allocate its resources for conventional defense in the most effective and efficient way.

NATO dissipates a large portion of its defense expenditures into national systems that are often duplicative, nonstandardized, and, in some cases, not even interoperable with allied systems.

In part, NATO's failure to acquire a stalwart conventional defense capability reflects the almost ostrich-like tendency to ignore the military and political dangers of an excessive reliance on the early resort to nuclear weapons.

In addition, NATO member states have divergent views on equitable sharing of the burdens and risks of common defense. Fears of the devastation of a prolonged conventional conflict or a nuclear war limited to Europe have fostered policies that have effectively precluded the deployment and the development of the capabilities required by flexible response, as well as forward defense.

NATO's deficiencies are apparent, and most dangerous at the level of conventional forces.

To be sure, the NATO alliance has improved its conventional forces over the last several years, and I think this is particularly true of the United States. However, the rate of NATO improvements has simply not kept pace with the growth in the Warsaw Pact's warfighting capabilities.

As General Galvin told the committee, quoting him:

In general, since 1973, the size of the Soviet military machine facing NATO has grown almost 50 percent, while NATO forces grew little more than 10 percent.

Admiral Crowe warned of "an increasingly negative conventional balance, and adverse trends in many of the major weapons categories."

The Chairman of the Joint Chiefs expressed particular concern over the low level of sustainability items and munitions for NATO conventional defense, declaring:

This trend has, in turn, lowered the nuclear threshold and raised the risk of general escalation

Perhaps most ominously, the Warsaw Pact has improved its ability to conduct a short-warning, massed armored attack.

NATO is especially vulnerable to such an attack, particularly against the Northern Army Group. NATO suffers from inferior firepower; lower levels of sustainability than required, especially in munitions, and especially in what we call "smart" munitions or high-technology munitions; inadequate reinforcement rates; and peacetime maldeployment of its forces. NATO's posture is further weakened by the Warsaw Pact's chemical warfighting superiority.

In short, Mr. Chairman, there are considerable risks that NATO forces could be defeated quickly by purely conventional means. However, we have to put this in perspective.

Any attack contemplated by the Warsaw Pact would certainly not be without risk from their point of view.

The outcome of a conventional war depends on many unknowns: The relative performance of competing weapon systems; the quality of personnel; training; leadership; and morale to name a few.

Senator Levin recently pointed out in a report to our committee that you simply cannot count quantitative measurements. I think he is right about that.

Although NATO has doubts about its own capabilities, which I have enumerated here this afternoon, the Soviet Union may also have legitimate concerns about its ability to achieve a quick, conventional victory, before the reliability of the East European nations is fully tested and before it might become involved in a two-front war; that is, a simultaneous engagement on the western front and also on the Chinese border, where they have a substantial portion of their forces.

So, from their perspective, a quick victory may not be something of which they are very confident.

Despite these uncertainties on the Soviet side, NATO cannot afford to assume the Soviet Union will always be deterred from aggression. NATO must focus on capabilities, not simply on intentions, which are very hard to divine under the best of circumstances.

Major improvements in the conventional balance are required.

Turning to the post-INF environment, if the INF Treaty is approved by the Senate, it certainly is not going to be the end of the road for NATO, and we should not in any way delude ourselves with that notion. In some respects, it will only be a beginning.

Whether history judges the INF Treaty to have made a positive or a negative contribution to the defense of Europe will depend ultimately on which road the alliance chooses to travel at this critical juncture. One NATO road leads backward, down a "slippery slope," to European denuclearization, American disengagement, and Soviet domination.

The other NATO road leads forward to the solid ground of solidarity, stability, and security.

The "slippery slope road" is marked with several warning signs:

First, a growing nuclear allergy in the West, coupled with continued NATO reliance on early use of nuclear weapons in response to a nonnuclear attack;

Second, changed public attitudes toward the United States and the Soviet Union;

Third, U.S. and European fiscal and budget realities, with which I know all of you are very familiar with;

Fourth, NATO's reluctance to think boldly in the areas of conventional arms control. We are the ones who don't have a proposal on the table in the conventional arena now, and yet we are the ones who really need to be challenging the Soviet Union to make dramatic reductions in their conventional advantages; and

Finally, a continuing failure of political will in getting the most out of our collective defense resources, something Senator Warner,

myself, Senator Quayle, and others have worked on for a long time. We make a little progress here and there, but we have a long way to go.

We are perhaps fortunate that the warning signs on what I have called the "slippery slope road" are so unmistakable. If we view these warnings as trends that need to be reversed, rather than as milestones on a one-way road to our ultimate demise, NATO can persevere.

I believe the roadmap to firm, level ground requires a three-track approach.

The first track requires revolutionary conventional force improvements, including the vigorous implementation of such programs as the balanced technology initiative, which was started 2 years ago by the Congress; NATO cooperative research and development; and side-by-side testing, which could lead to joint weapons procurement. NATO must also assign the highest priority to eliminating its critical conventional warfighting deficiencies—what I have termed "automatic escalators."

Some of you may remember an amendment on that subject 2 or 3 years ago which addressed the critical shortfall in NATO ammunition, the absence of aircraft shelters for our planes. If they were to go over in the middle of a war, our planes still would not have an adequate place to be sheltered. They still don't have what we call adequate minimum essential facilities, meaning that if many of the aircraft that we have—the best pilots in the world, in my view, the best planes in the world, we paid a huge amount of money for them—arrived in NATO tomorrow morning for any kind of war, even just a conventional war, let alone nuclear, many of them would not be able to fly but one time because they would not have a place to refuel and they would not have an adequate shelter for survival in the midst of what would be an awesome kind of firepower.

The second track involves bold and innovative conventional arms control proposals, including a radical new approach to confidence building measures.

I see my friend from Colorado, Senator Wirth, is here. He has been a real leader in this respect and he has come back from NATO with a report to our committee, which I think has some very good suggestions in it.

With new thinking on both sides, we could significantly increase the transparency of possible Soviet war preparations and reduce significantly the Warsaw Pact options for a surprise attack.

What I have in mind—and I mentioned this in the Soviet Union 10 days ago when we were there on a trip, with Senator Cranston, Senator Cohen, and others; we had a lot of good discussions—what I have in mind, and what I have thrown out as at least food for thought, are innovative schemes for onsite access to militarily significant nodes in the Warsaw Pact's mobilization infrastructure, such as airfields, railroad yards, and even headquarters. Pilot projects on verification could also be explored in parallel with negotiations on actual reductions and, if they are agreed upon, they could be split off and implemented in advance of any agreement on reduction, which may take years.

What I am essentially suggesting, at least for us to think about, is flipping the whole arms control agenda in reverse in the sense of starting with verification on conventional, which is going to be the most important; going with some pilot projects; going with some onsite inspection; making sure that we know if there is going to be any kind of attack; making sure we have advance notice of mobilization.

I have not analyzed these ideas in depth. But we have to start doing some thinking in this respect, and I believe that getting some of these areas out front, including possibly even pilot project verification, would be helpful.

I would also suggest that after 14 years of dismal experience in the mutual and balanced force reduction talks, that in the conventional arms control arena we might very well ask for data up front. After 14 years we still are trying to get adequate data on the manpower levels in Europe.

Why not say to the Soviet Union, let's lay down the number of tanks, let's lay down the number of artillery tubes on the table, let's talk about the deployment of forces, where they are deployed. Let's talk about your training exercises, which we, at least, perceive to be very offensive in nature. Let's talk about your mobilization base, your sustainability. And we, in turn, are willing to discuss all of those things on our side.

So, I guess, Mr. Chairman, Senator Helms, Senator Lugar, and others, I am saying that we are going to have to think anew if we are going to have any chance in the conventional arena, which I think is the ultimate test of arms control.

The third track that I suggest entails vigorous public education, including clear explanations of our military needs and our arms control rationale.

We have a long, long way to go in that respect.

In short, Mr. Chairman, I would suggest that the INF Treaty is much like a hole taken out of the middle of a donut. While we will succeed, if this is ratified, in removing a number of nuclear weapons in the middle of NATO's deterrent spectrum, we've left on one side a serious imbalance in battlefield nuclear and conventional forces, and, on the other, a strategic balance that is in rough parity.

If INF is to prove beneficial to the security of the alliance over the long run, NATO's challenges are clear.

We must press forward with the kind of three-track approach I have outlined for establishing a stable, nonthreatening balance of conventional forces in Europe.

We must pay careful attention to the battlefield nuclear weapons area. I believe that the modernization of our remaining battlefield and theater nuclear forces is an absolute necessity.

However, a word of caution.

We must resist the temptation to use the INF Treaty as the pretext for reviving proposals for nuclear systems which could not pass muster before. We must not forget that every conventional platform and delivery system which is now given a nuclear role effectively removes one more weapon from NATO's conventional order of battle, and that is where we have the biggest problem.

As we conduct needed modernization in these forces, we must not give the impression that a nuclear "quick fix" is the answer to all of our deterrent woes.

I would emphasize, Mr. Chairman, that our goal is to raise the nuclear threshold in Europe to make nuclear war less likely, not to lower it and make nuclear war more likely.

We must continue our efforts to achieve a stabilizing and effectively verifiable START agreement.

Last, Mr. Chairman, we must try to ensure that future NATO leaders accomplish what this month's summit failed to produce, at least as I observed it, that is, a roll-up-your-sleeves-get-down-to-business work program designed to confront the hard realities of NATO's current military deficiencies.

NATO was certainly within its rights to celebrate the signing of the INF Treaty, but in the cold dawn of the day after, NATO's challenges remain formidable.

Turning to the assessment of the treaty itself, in the broad sense I believe the INF Treaty can make a modest, but useful, contribution to NATO security. There are a number of positive features of the treaty, particularly:

The disproportionate Soviet reductions, a precedent which I think must be followed in the conventional negotiations;

Onsite inspection; and

Cooperative measures for enhancing verification through national technical means.

At the political level, the treaty is a triumph for allied cohesion and coordination. It is also a tribute to the governments in the basing countries which displayed resolve in implementing INF deployments in the face of widespread domestic opposition and skillful Soviet propaganda.

In addition, the treaty reflects the fruits of continuity in the United States between two successive administrations. I must say that we don't have nearly enough of this kind of continuity in the area of foreign policy—one Democratic President, President Carter, the other Republican, President Reagan—which, with bipartisan support here in Congress, stood steadfastly behind NATO's "dual-track" approach.

I would add that our Nation has been, I think, very ably represented in these negotiations by a very skillful and wise team under Ambassador Kampelman and Ambassador Glitman.

Nonetheless, unless this treaty is coupled with a subsequent START agreement, its military significance is, at best, marginal.

I say this because every target currently targeted by Soviet short- and intermediate-range systems can easily be assigned to some other Soviet nuclear system. This includes strategic systems, such as ICBM's or the *Yankee* class submarines, which have now been redeployed from our coast to European waters, or intermediate-range systems not covered under the treaty, such as air-launched or sea-launched Cruise missiles.

Alternatively, the Soviets could develop and deploy a new type ground-launched ballistic missile replacement for the SS-20 provided that the missile were tested at least one time in a range in excess of 5,500 kilometers, even if it were tested on every subsequent occasion at INF ranges.

What I am saying is you test a new missile—you can call it the "SS-38" or whatever you want to call it. You could test it one time at over 5,500 kilometers. You could put it back into the same holes that the SS-20's have been taken out of and you, the Soviet Union, would be perfectly legal.

That is something that I don't think many people have thought about, but it is allowed by the treaty.

In addition, the treaty's verification regime cannot provide guarantees that no banned missiles are covertly maintained. Rather, the treaty depends on a Soviet calculation that either: Such systems would not be militarily viable due to the ban on flight testing, training, infrastructure, et cetera; or that the political risks of cheating outweigh the military gain.

I must say that I share the opinion of Senator Boren and Senator Cohen on verification, which they presented to you this morning.

Whether these assumptions are valid is the central issue before the Senate with regard to the verifiability of the treaty. I understand you had a chance to go into that in depth this morning.

On balance, I believe that the positive features of the treaty outweigh the weaknesses.

Moreover, I am convinced that, were the Senate to reject this treaty, the political repercussions in Europe would be very, very significant and adverse.

For these reasons, I would hope that the Foreign Relations Committee would report the treaty to the Senate, with a recommendation that it be ratified, although at this stage I must say not necessarily without amendment.

Mr. Chairman, I regret that under the current situation, a discussion in this testimony of even my personal recommendations on possible treaty amendments is impossible. During our hearings, members raised a number of concerns with regard to a number of possible ambiguities in the treaty. These included—and I know Senator Warner is going into several of these in his testimony—these included article 14, the so-called double-negative problem in article 6, the article 16 provision allowing changes to the protocols without Senate approval, and the applicability of the provisions defining ground-launched Cruise missiles and ground-launched ballistic missiles to future weapon types, to name only a few.

There are two areas that I have already mentioned that we are going to go into further. One is the ground-launched conventional Cruise missile and also the question of futures systems.

I had thought that we had received an adequate answer to most of these questions, with those two exceptions I have just named, in testimony and written response by the administration.

However, in light of the letter sent last Friday to Senator Lugar by White House Counsel Arthur B. Culvahouse, considerable doubt has been cast over the valuable work done by our committee as well as by your committee and also by the Intelligence Committee.

Until this matter is clarified—and I hope it can be clarified—I see no point today in going into a detailed discussion on specific issues, although I am available for your questions.

Mr. Chairman, the background for this development is the dispute with the administration over the Senate's role in the treaty ratification process.

On February 9, Senator Byrd and I received a letter from Secretary Shultz, which we had hoped would resolve this dispute and establish an authoritative basis for the committee to reach conclusions as to the meaning of the treaty.

In the letter, Secretary Shultz provided three assurances:

One:

All INF testimony of executive branch witnesses, within their authorized scope, is authoritative. We will inform the relevant committee of any instance in which a witness' testimony is not authoritative in any respect.

The second point:

Administration testimony and materials for the record can be regarded as authoritative, as described above, without the need for the Senate to incorporate them in its resolution of ratification.

That second one is a key to how many amendments we are going to need on the floor of the Senate, because if we don't have that, every ambiguity has to be addressed on the floor of the Senate.

The third:

The Reagan administration will in no way depart from the INF Treaty as we are presenting it to the Senate.

Based on these assurances, our committee proceeded with detailed administration testimony on the treaty, believing that the treaty the Senate is being asked to approve is the same treaty that was signed and the same treaty that will be respected in the future.

Unfortunately, the administration chose to cast considerable doubt on the authority of Secretary Shultz' letter when it sent the Culvahouse letter late last week.

In light of this development, I believe the following principles will have to be affirmed in some form before the Senate can complete its action on the treaty.

First, the testimony of all executive branch witnesses and any submission for the hearing record can be regarded as authoritative. Otherwise, what do we have? What do we have before us if it is not authoritative.

Second, the meaning of the treaty, as presented to the Senate through its committees, can be regarded by the Senate as authoritative, without the necessity of the Senate incorporating that testimony and material in its resolution of ratification through understandings, reservations, amendments, or other conditions.

We believe that the ambiguities in the testimony that we have received in the committees is the heart of our work. The question is whether we have to repeat all of that on the floor of the U.S. Senate.

At this point, we don't have a clear answer.

Third, a meaning for the treaty different from that presented to the Senate by the Reagan administration cannot be adopted without the approval of the Senate.

I think all of these principles are enormously important, not just to this treaty, but to our overall constitutional process.

Until such time as we find a way to affirm these three principles, I would have to reserve judgment on whether or not specific amendments to the treaty are necessary, and which ones might be

necessary, since it is impossible to determine whether the clarifications we have thus far received in testimony are authoritative.

Mr. Chairman, Senator Helms, I thank you for your patience and I thank my colleague for his patience, because this was a rather lengthy statement. But I did feel that the points covered were important.

Thank you.

[The prepared statement of Senator Nunn may be found in the appendix.]

The CHAIRMAN. Thank you very much indeed.

Senator BOSCHWITZ. Mr. Chairman, I would like to just excuse myself to my colleagues. I have a very busy afternoon.

I appreciated your testimony, Sam, and I'm sorry that I am going to miss yours, John. I will read it.

The CHAIRMAN. Thank you.

Senator WARNER.

Senator WARNER. Mr. Chairman, Senator Helms, members of the committee, I wonder if I might confer with my colleague for a moment.

[Pause.]

Senator WARNER. Thank you.

Mr. Chairman, the Senate received copies within the last hour of a letter addressed to you, Senator Lugar, which, in the judgment of this Senator, helps to clarify some of the questions raised by Senator Nunn in the final parts of his testimony. I just have provided my colleague with it. He had not had an opportunity to study it.

I wonder if we could put that comment toward the end of his testimony and then I will begin with my statement.

Senator NUNN. I might just say that I looked at it very hastily. I got it at about a quarter of 1, I believe. I don't think it solves the problems I have outlined, but I would be glad to go into it further.

Senator HELMS. Now are you talking about the second letter?

Senator NUNN. The second letter, right.

Senator WARNER. Yes, and I think it appropriate at that point in the record where Mr. Nunn referred to it that the full text of all the letters pertinent to this issue be included.

The CHAIRMAN. Those will be included in the record, without objection.

[The information referred to appears in the appendix.]

STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM VIRGINIA, AND RANKING MINORITY MEMBER, SENATE COMMITTEE ON ARMED SERVICES

Senator WARNER. Mr. Chairman, my statement I feel is parallel and complementary to that of Senator Nunn, and therefore, I will not read the entire statement. I ask that it can be put into the record so that we save a little time.

The CHAIRMAN. Without objection.

Senator WARNER. The committee, as stated by the chairman, has completed a very thorough series of hearings on the treaty and the overall NATO strategy context for the treaty. Chairman Nunn is to be commended for his thorough approach to this important task, and, likewise, the members of our committee.

In addition to the testimony received in our hearings, Senator Nunn and I wrote to former Presidents Nixon, Ford, and Carter, each of whom pursued arms control agreements during their respective terms of office, to solicit their views on the INF Treaty.

With your permission, Mr. Chairman, I would like to enter their responses into the record, so that they might become a part of the ratification record available to all Senators as they consider the INF Treaty.

The CHAIRMAN. Without objection.

[The information referred to appears in the appendix.]

Senator WARNER. At the conclusion of my remarks, I will address those three letters in some detail.

The committee has created a substantial hearing record, both in open and closed session, on the meaning and intent of certain treaty provisions that raise questions about their potential effects on the rights and obligations of the United States and the Soviet Union.

In some cases, further questions were raised by the article-by-article analysis of the treaty and by responses of administration witnesses seeking to clarify articles of interest to members of the committee.

As a result, I and other members of the Armed Services Committee have turned to the negotiating record to seek clarification of the rights and obligations of the parties under the following specific provisions.

First, to help understand the meaning of the clause "outwardly similar but not interchangeable with" as it is used in article 6, paragraph 2, of the treaty text.

Second, to clarify the issue of "future obligations" that arises in the article-by-article analysis of article 14.

Third, to answer verification questions raised during our hearings regarding our inspection rights and ability to monitor the production of treaty-related systems at the Votkinsk Machine Building Plant, as contained in section 9, paragraph 14, of the inspection protocol.

Next, to answer questions that arose in our hearings regarding flight testing of ground-launched Cruise missiles, as contained in article 7, paragraph 4 of the treaty.

Indeed, that issue on ground-launched Cruise missiles is the battleground that I think will be fought over most heavily by the Senate. We intend to deal with it tomorrow in some detail in our committee, and I think the chairman said—if not, I would inform this committee—that the chairman and I have asked the Chairman of the Joint Chiefs of Staff and the Secretary of Defense to address that issue with greater detail here in the next few days.

Next is to clarify the "flight testing" definition with regard to the maximum range capability of ground-launched ballistic missiles, under article 7, paragraph 4.

Next is to determine what is meant by canceling an inspection due to conditions of force majeure under section 10 of the elimination protocol.

Next is to answer questions regarding the destruction of SS-20's in their canisters as opposed to eliminating the missiles separate

from the canister under section 2, paragraph 10, of the elimination protocol.

Next is to determine the reasons for not requiring the Soviets to declare, under section 5, paragraph (b) of the memorandum of understanding, the production facility for their ground-launched Cruise missile, which has an identical or near-identical sea-launched variant.

Finally, Mr. Chairman, is to establish and fully understand why certain provisions, such as "anywhere, anytime" suspect site inspections, which are important for an effectively verifiable START agreement, were excluded from the INF Treaty.

In many cases, Mr. Chairman and members of the committee, the negotiating record, in combination with the testimony of administration witnesses, in closed session, has clarified the rights of the United States and its obligations under the treaty.

Regrettably, however, I must conclude at this point that there remain possible discrepancies between information contained in the negotiating record and that provided as part of the ratification record, such as the article-by-article analysis. These issues must be resolved as part of the ratification process.

I urge this committee to address each of those issues.

In particular, Mr. Chairman, we must ensure that we do not leave ambiguities with respect to future systems—I repeat, the future systems—or with respect to future obligations. Our unhappy experience with the ABM Treaty underscores that imperative.

Our committee likewise will be receiving testimony here in the next day or two on the questions of classified programs and to the extent there was full knowledge by the negotiators as they dealt with the negotiations, bearing in mind the priorities of our Nation in certain classified programs.

At the same time, I would hope this committee and the Senate as a whole would not attempt to resolve on this treaty a longstanding question concerning the balancing of interests between the executive branch and the legislative branch with regard to treaty interpretation.

Such an attempt, I think, would be most divisive.

Apart from these issues, Mr. Chairman, the record of the Armed Services Committee hearings suggests strongly that the INF Treaty is, as stated by the chairman, on balance, in the national security interests of the United States and our allies.

As the ratification process continues, it is our duty to point out clearly not only what the treaty accomplishes, but also what challenges remain. The chairman went into this in some detail.

To this end I would point out the following:

First, the INF Treaty lessens, but does not remove, the threat of attack to NATO targets, which can, and no doubt will, be covered by Soviet strategic systems, such as the SS-25 or the submarine-launched ballistic missiles, which have already been tested to theater ranges, or by future systems that are not covered by the INF definitions.

Second, while the monitoring provisions contained in the INF Treaty are unprecedented, they will require unprecedented cooperation in order to preserve the spirit of the agreement. The treaty represents a significant challenge for the risk reduction centers

which, coincidentally, opened today. Senator Nunn and I were privileged to join Secretary Shultz and Foreign Minister Shevardnadze as we sent the first message this morning, at around 11:30, to the Soviet Union, and, within a split second, they had replied on this new communications system.

Senators, these centers will be a focal point for such cooperation. Indeed, I believe we can look to the effectiveness of these centers as a barometer of whether the Soviets are truly interested in arms control compliance that adheres both to the letter and the spirit of this and future agreements.

Third, in the testimony provided to the committee, I have noted that much attention has been paid to our ability to monitor militarily significant violations. I agree that such considerations are central to whether this treaty is in our national security interest. At the same time, I would object strongly if this very proper focus on militarily significant violations were interpreted as a lack of concern over violations that do not meet this criteria.

It must be clear to all that we will not tolerate violations irrespective of their military significance.

Finally, Mr. Chairman, it is my judgment, arrived at through participation in the hearings of both the Armed Services Committee and the Committee on Intelligence, that the monitoring provisions in the INF Treaty, while a valuable precedent, will have to be expanded—I repeat, expanded—to monitor a START agreement, as we now understand the outlines of that agreement here in the Senate.

Moreover, Mr. Chairman, the elimination of important military capabilities solely to facilitate verification I hope will be resisted by the negotiators as they conclude the START Treaty.

At this point, I would, Mr. Chairman, ask that the balance of my statement be put into the record.

[The prepared statement of Senator Warner may be found in the appendix.]

Senator WARNER. I will turn now to the letters from the three Presidents which the chairman and I solicited. They were very forthcoming and cooperative.

In order of their succession, there is a letter from President Nixon dated February 11, 1988.

Dear Sam and John, While I was not a proponent of the zero/zero formula it embodies, I believe the treaty should be ratified by the Senate. Since the U.S. INF forces were a key element in the seamless web of nuclear deterrence linking the defense of Western Europe and the United States, I would have preferred a treaty that permitted each side to retain equal INF forces, though at a sharply reduced level of deployment.

Further on:

The Senate can express its concern on this and other issues by following the precedent of the Jackson amendment to the proposed SALT I Treaty in 1972, which required future arms control agreements to be based on parity; but the Senate should not add amendments that would require renegotiation of the treaty since such an action would have a disastrous impact on our European allies.

Further in the letter he points out certain caveats that he has:

First, the NATO alliance must take actions to compensate for the treaty. This means both increasing our bomber forces stationed in Europe capable of reaching Soviet territory and also modernizing NATO's short-range nuclear forces.

Second, the United States must not allow the INF Treaty to usher in a false euphoria about a "new dawn" in United States-Soviet relations.

Third, the United States must not make the mistake of believing that the INF verification provisions, which are more intrusive than those in any previous agreement, would be adequate for a START accord.

While serious concerns have been expressed in the hearings about the possibility of Soviet cheating under the INF Treaty, the strategic impact of such cheating, while important, would not be cataclysmic. But if the United States failed to insist on genuinely ironclad verification provisions in a START agreement, the survival of the West could be at risk.

While the INF debate thus far has been primarily centered on the issue of verification, that is not the central question in the START talks. We must keep in mind the fact that a bad agreement can be verified but that does not make it a good agreement.

Our goal in the START talks must be not only an accord that is verifiable, but also one that eliminates the present Soviet advantage in counterforce weapons. None of the current administration proposals that have surfaced in the media meet that test.

President Ford:

I support ratification of the treaty by the U.S. Senate. However, it is essential that the Members of the Senate are fully assured that the verification provisions are more than sufficient to provide the capability to detect any violations of the agreed terms. The United States must also have in being the technical capability of determining any such violations.

Further down:

Most importantly, there should be no further reductions in European theater nuclear weapons until the issue of balance in conventional arms is resolved.

Members of the U.S. Senate who vote for ratification of the INF Treaty must recognize their commitment to NATO's conventional arms improvements. It would be foolhardy to ratify an INF Treaty and not adequately achieve balance and strength in NATO's conventional capability. We must never forget NATO has been the military force in being that has maintained peace on the European continent for the longest period in the past 200 years.

If you or other members of the committee have further questions, I would be glad to respond.

President Carter, from his letter dated March 3, 1988:

It is my presumption that the terms set forth in these four principal documents either have been or will be carried out honestly and thoroughly by both sides, and that the means to detect violations are adequate.

The INF Treaty does not make any significant change in the strategic military balance. One result is that the removal of intermediate- and short-range missiles will highlight the Soviet advantage in conventional forces.

Treaty provisions governing communication and verification can enhance crisis stability through the use of nuclear risk reduction centers. Also, new onsite inspection rights during the next 13 years can reduce tensions between the United States and the Soviet Union by adding substantially to mutual understanding of procedures, policies, and attitudes. Again, however, the acceptance of such inspections is a significant advance that bodes well for possible future agreements involving strategic nuclear weapons and conventional military forces.

Looking to the future, any further substantial reductions in nuclear forces should be tied to equalizing the conventional military balance in Europe, and special attention must be paid to the presence of the large Soviet land-based missiles that pose a major threat to strategic stability.

In summary, my recommendation to the Members of the U.S. Senate is that the INF Treaty be ratified despite its limitations. Rejection of the treaty or substantive amendments or reservations that would require further negotiation would, at this time, be a serious blow to our Nation's prestige and an almost insurmountable obstacle in pursuing more substantive agreements in the future.

I thank the Chair and the members of the committee.

The CHAIRMAN. Thank you very much, indeed, gentlemen.

I would add that I think the country, indeed the world, owe you both a very deep real debt of gratitude. I have seen the way you

have pushed the idea of the risk reduction centers and raised it first with General Secretary Gorbachev when we were in the Kremlin and have followed up since. Very few of your colleagues have had the creative joy of having a design and translating it into reality. So I congratulate you on that.

Senator WARNER. I remember it well. It was in September 1985—

The CHAIRMAN. It seems like last summer.

Senator WARNER [continuing]. When Senator Byrd, and you, and I, Senator Nunn, and Senator Sarbanes were there, Senator Nunn and I raised the question with General Secretary Gorbachev of the nuclear risk reduction centers. President Reagan liked the idea and had his Secretary of State develop it.

Senator SARBANES. Mr. Chairman, I wonder if staff could get those three Presidential letters that Senator Warner was just quoting from so that copies might be made available to us. We may want to ask about them.

Senator WARNER. Absolutely.

The CHAIRMAN. One question in connection with the risk reduction center you were at this morning. You said there was an immediate reply.

The hot line, as you know, takes quite a while, as it gets off the typewriter and gets translated. Does this go more quickly than the hot line?

Senator NUNN. I believe, Mr. Chairman, the hot line has been enhanced since that time. There was an enhancement of the hot line as the first part of this overall risk-reduction effort. That took place about 2 years ago. So, I believe the equipment now would be comparable to what we have in this center.

This is state-of-the-art-type equipment. We have the ability to have it translated. We have a translator who is in the headquarters at all times. So, we have someone who can take the Russian-language version that we get back in reply, which he did this morning, and read it into English. But it also has the capability of facsimiles. We can send maps and that kind of thing, too.

We are plugged in through two satellites, and it is really a state-of-the-art operation. But I think the hot line now has that kind of capability also.

The CHAIRMAN. I congratulate you.

The second letter—have you had a chance to read the second letter from White House Counsel Culvahouse?

Senator NUNN. I read it, Mr. Chairman, and I must say that it does not solve my problem, the reason being it simply asserts that there is no conflict. You can assert anything. But the conflict remains. The conflicts are not addressed.

The Culvahouse letter says that there is no conflict between this letter and Secretary Shultz' letter. But let me just point out a conflict that I know Senator Helms would be interested in.

In the Shultz letter, it says that all testimony—all testimony—is authoritative. The Culvahouse letter No. 1 suggests very strongly that trivial or unimportant issues are in a different category from authoritative testimony. It also indicates that Secretary Shultz' testimony is in a different category from others; that the other, even

negotiators' testimony, is scaled down. It calls questions for the record "trivial and unimportant."

Now, maybe those were yours, Senator Helms, but I thought mine and Senator Warner's were pretty important. But I would say it puts them in a trash can over here and says these answers are not to be taken seriously folks, just forget about them.

Well, I don't know about your committee, but when our committee asks questions for the record, we have started a rigorous process of eliminating duplications, making sure we don't have trivial questions.

We had 135 questions, and every one of those would have had to have been answered before the committee and would have stretched our hearings even further than they already are. So, we are trying to accommodate the executive branch of Government in asking those. We had been assured by Ambassador Glitman in personal testimony that those answers were going to be authoritative.

But the Culvahouse letter says folks, don't pay any attention to those, in effect; that's trivia.

Now, the other thing that is very important is this. The Shultz letter very specifically says that the Senate need not incorporate administration testimony in its resolution of ratification. The Culvahouse letter suggests very strongly, on page 3, that the Senate, as a whole, must assert the question on each ambiguity; that if the Senate as a whole does not address these questions, then the committee work is, again, in a trash can.

You spent days and days—we did, too—going through the ambiguous parts of the record. We got authoritative, we thought, testimony. We tried to clarify the ambiguities. We think we have clarified most of them in our record.

Now we are told by implication in the Culvahouse letter that you have to go to the floor and have the Senate as a whole act on these. Otherwise, they don't mean anything.

I think that is a direct conflict with the Shultz letter.

Now, the third point that I would make is that this matter is very important to the Senate as an institution. I know that whatever side of these questions we come down on from time to time, all of us think a great deal of the Senate as an institution, and we believe we have a constitutional role to play, a responsible constitutional role to play, and we take it seriously.

The Culvahouse letter, as I read it, basically denies that the Shultz letter has a constitutional foundation. It basically treats the Shultz letter as not having a constitutional foundation.

I see the Culvahouse letter, which allegedly is signed off on by other general counsel—I say "allegedly" because I have gotten some contradictions from other people; I have been getting back-door denials that a lot of people signed off on it at all—nevertheless, I think it brings into serious question whether the Shultz letter, according to the Culvahouse doctrine, is indeed within the constitutional framework.

I see the Culvahouse letter as inviting a future administration, as soon as George Shultz is out of office, as soon as President Reagan is out of office, I see the Culvahouse letter as inviting the next administration to say "OK, those guys did that for expediency, it doesn't fit into the overall framework, the heck with the Shultz

letter, we will interpret the treaty that was ratified last year under President Reagan in the way we choose to interpret that treaty."

Let's assume, Senator Helms, that President Dukakis comes up here in 1989 and he says "Look, I read those general counsel statements, and they told us that the Shultz letter didn't mean much, it wasn't within the constitutional framework; all that testimony that they thought was authoritative, it doesn't look authoritative to me. We have a lawyer over here and he's going to go through those 31 volumes of the negotiating record." Lo and behold, a "bright young lawyer" comes up and says, "President Dukakis, guess what we found?" Those guidance systems that you were talking about and the Congress wanted you to share with the British, or the French, or the Germans, nope, you can't do that. Article 14 implies that that is not done. Look at the negotiating record. We found this quote back here in some unilateral memcon that was in the negotiating record. We think you had better cut out that kind of transfer, President Dukakis.

I think we would hear from Senator Helms on that one.

Now let's say that President Jackson comes up in 1989 and President Jackson says I don't like all those black programs—and I mean by those, those secret programs, And I think the INF Treaty basically contradicts those and I am going to cut out these six so-called black programs that Congress wants because it violates the INF Treaty as we interpret it now.

Forget all that testimony in front of the Foreign Relations Committee. Forget all that testimony in front of the Armed Services Committee. We've got us a young lawyer and we have found that the negotiating record does not justify it.

That is what the Culvahouse letter does. That is what this is all about.

This is not about the ABM Treaty. This is about the role of the U.S. Senate on the Constitution. We don't have but one Constitution. We have a Constitution under the INF Treaty. We have the same one that applies to all the other treaties.

So, Mr. Chairman, that is the short answer. You can tell that I am laid back on this question. [Laughter.]

The CHAIRMAN. Thank you.

Senator WARNER. Mr. Chairman, I would feel constrained to say that when a Republican President, who will remain unnamed, comes to office, he would find the Culvahouse No. 2 letter, which I passed to my colleague. It is only a short letter and should be read here so that those viewing and listening will have this issue in perspective.

It is dated March 22 to Senator Lugar:

Discussions concerning my letter to you of March 17, * * *

Which my good friend, the chairman, has alluded to—

Have raised a question about the Secretary of State's identical letters of February 9, 1988, to Senator Byrd and Senator Nunn. To clear up any misunderstanding that may exist, I should like to assure you that no inconsistency was intended or, in fact, exists between my letter and Secretary Shultz' letter. Whereas Secretary Shultz responded to the Senator's request for assurances regarding the "authoritativeness" of the executive branch testimony on the INF Treaty and the Senate's ability to rely on such testimony, my letter addressed a specific draft text, setting forth what we believe to be unconstitutional and unworkable rules of treaty interpretation.

As the Secretary of State's February 9 letter pointed out: (1) All INF testimony of executive branch witnesses, within their authorized scope, is authoritative; (2) administration testimony and materials for the record can be regarded as authoritative without the need for the Senate to incorporate them in its resolution of advice and consent; and (3) the Reagan administration will in no way depart from the INF Treaty as we are presenting it to the Senate. Those letters remain an accurate statement of our policy and intentions with respect to the INF Treaty.

My March 17 letter is consistent with Secretary Shultz' statement of administration views. Signed Culvahouse, Counsel to the President.

The CHAIRMAN. Thank you very much, indeed. I am going to desist now. As you know, my aim, we hope around 4 to start the procedural meeting of the committee; that is, a committee meeting to discuss our procedures.

I will turn now to the ranking minority member.

Senator HELMS. Mr. Chairman, why don't you take a little more time because the Senator performed a valuable service of reading into the record and I know you must have some more questions.

The CHAIRMAN. No. I think my colleagues will probably ask them for me. But thank you.

Senator HELMS. Well, I will try to.

The CHAIRMAN. Thank you. I think we ought to limit ourselves to 10 minutes.

Senator HELMS. Senator Nunn, Sam, let me see if I can understand a little better your position or the disagreement between you and Mr. Culvahouse.

Mr. Culvahouse says he believes that it is simply impossible to have all statements and answers made by administration witnesses to be authoritative for treaty interpretation purposes. He said somewhere that there were over 1,000 questions that have been submitted by Members of the Senate.

Then he concluded, and I quote:

This overly broad standard is inconsistent with the principles governing judicial interpretation of treaties as a matter of domestic law.

Do you find any fault with that?

Senator NUNN. There are really two questions here.

I have no fault with Mr. Culvahouse's taking issue with the Biden amendment. Senator Lugar made a legitimate inquiry about how the administration viewed the Biden amendment.

I may or may not agree with the Biden amendment in the final analysis. I think we could continue to work on it. Perhaps we could work out something on a bipartisan nature. I am not trying to resolve the ABM dispute at all in this.

So, that approach to saying that they don't agree with the Biden amendment is one thing. But it is the way they went about doing it.

He fired at least some theater nuclear weapons at the Biden amendment. He didn't take a rifle. He basically exploded all over it, and, in the course of it, he set forth what I consider to be an erroneous set of principles of constitutional law.

Now I don't know why he did that. He could clearly have said he was against the Biden amendment without going into all of this. But he basically said, if you look at the last paragraph on page 1, talking about the Biden amendment, "These statements presumably include and attribute equal dignity to the Secretary of State's definitive article-by-article analysis." That is one point—equal dig-

nity to that—"and to the extensive testimony of Cabinet members, treaty negotiators, and other executive branch officials, as well as to the administration's answers to over 1,000 questions submitted by Members of the Senate, no matter how trivial or unimportant the issue addressed may be."

Now, where is the equal treatment in there? Can anyone tell me which of those categories are authoritative and which ones we should be skeptical about?

Senator HELMS. Well, I think that is the thicket that you get into. You have put your finger on it, Senator.

Maybe I have been viewing treaties as too simplistic, or at least the process. The Constitution gives the President the sole authority to make a treaty, and that means it is his responsibility to execute a treaty, which means that it is his responsibility to interpret a treaty.

Mr. Culvahouse seems to be saying that this means that it is his responsibility—meaning the President—to interpret a treaty, and any interference with these obligations, Culvahouse says, would constitute "an unprecedented abrogation of treaty power by the Senate."

So, you have these two forces running headlong against each other.

Does he have no merit in his position at all? And I am not being adversarial in this. I am trying to learn.

Senator NUNN. I understand that.

I think we would have to divide it up. I think there are certain parts of the letter that do have merit. I agree with a number of things he has said in the letter, and I have tried to point out which are the things I don't agree with. So, it is not the whole letter.

I think we have had the Secretary of State give us assurance that all questions before our committee are authoritative. When we have had Ambassador Glitman come up and give us his oral assurance that he has reviewed the answer to every question we have asked for the record, and that that answer is authoritative, and then you have the White House counsel come right back of it and say "No, that's not right, these questions for the record are of a different category," it even brings into considerable doubt whether the treaty negotiators have the same status as the Cabinet testimony.

Most of our testimony came from Ambassador Glitman. We tried not to bother the Secretary of State. We knew he would appear before this committee for hours. We never called him before our committee.

So the Armed Services Committee is in a position of having not even called the Secretary of State, and he seems to be the only, let's say, witness of "superior dignity" to which Mr. Culvahouse gives accord to.

So, I say that this directly contradicts what we were assured by Secretary Shultz and what we were assured by Ambassador Glitman.

Senator HELMS. I have to agree that some of the testimony before this committee has been trivial. It has been absurd in terms of conflicting statements, and I don't know whether you would take the original declarations about the treaty as a part of the administra-

tion's position. But they were talking a long time before somebody called their hand about warheads being destroyed. Then Senators started saying "Look, there ain't no warheads being destroyed under this treaty."

Mr. Culvahouse claims that the proviso—let me go back.

You said that you agree with a number of provisions or statements in the Culvahouse letter. Would that include some question in your mind about some provisions of the Biden amendment?

Senator NUNN. The answer is "Yes."

I think that we have continued to work on that. My staff has been working with some of the staff on the Foreign Relations Committee. I don't think that we ought to feel locked in concrete about any particular wording. I think there are some parts of the critique of the Biden amendment by Mr. Culvahouse that I think have merit.

I would hope that we could get together, the Democrats on the committee and the Republicans on this committee, and the Armed Services and Intelligence Committees, and work out some kind of agreement on how we are going to ratify treaties.

I can assure this committee that I am not attempting to readress at this stage, in this forum, in this treaty, the whole ABM question. I think that is a question that we can argue about from now on.

But I do think the constitutional principles of treaty ratification are enormously important and they have to apply to all treaties.

That is what we have to work out here.

Senator HELMS. You and I came to the Senate the same day in 1973. My total experience with you is that you have always been entirely reasonable, in addition to being very bright. Atlanta papers, please copy. [Laughter.]

Senator NUNN. Thank you.

Senator HELMS. I am glad to hear what you have to say about the ambiguity problem with respect to the ABM Treaty. I just wonder, if we want to clear that sucker up, why don't we just add an article to the INF Treaty which would in effect, amend the ABM Treaty and get this thing behind us?

How does that grab you?

Senator NUNN. That grabs me.

I don't know whether that would be called a "killer amendment." It probably would go beyond that. That description might be inadequate for an ABM amendment. It depends on what the amendment says, of course.

I know that you feel strongly about treaty interpretation. I followed closely some of your statements on it. I know you had an amendment to, I believe it was the polygraph bill, that related to ABM interpretation. I believe you asserted an interpretation.

I was glad to see, as ranking member of the Foreign Relations Committee, that you felt not only the President had a right to interpret but also the Senate has a right to interpret.

I like what I consider to be the "Helms doctrine." I was to read some of that here, Senator Helms, because I identify with it. You were talking about the fact that the administration had not conducted that 5-year review.

Senator HELMS. That's correct.

Senator NUNN. And you offered an amendment interpreting that 5-year provision, and you state here, quoting you, "Without understanding what the treaty actually says, some Senators understandably might be misled by the glib arguments and obfuscations by the State Department lawyers."

Senator HELMS. Right, and amen.

Senator NUNN. I can identify with that. [Laughter.]

Senator HELMS. I thought you would.

Senator NUNN. You state, "They are engaged in an interpretation that is contrary to plain meaning of the English language." I identify with that.

You went on to say, "I refuse to be a 'yes man' to the U.S. State Department when they start playing fun and games with what a treaty says and what it means."

I identify with all of those.

So I like the "Helms doctrine" better than I do the "Sofaer doctrine."

Senator HELMS. I appreciate that. We are getting into some common ground here, Mr. Chairman. [Laughter.]

Well, I think the INF Treaty offers an excellent opportunity for clearing up the ABM ambiguities and doing it in a way that would bind the Soviet Union as well. That is my interest.

I think you see what I mean. My time is up.

Mr. Chairman, I will go back to this on the next round.

Thank you very much.

The CHAIRMAN. Thank you very much.

As I said earlier, I would hope there would not be a second round, if possible, because we are shooting for moving on to another stage at 4 o'clock.

Senator HELMS. Well, there is nothing so satisfying as to be shot at and missed, you know.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

I want to thank my two colleagues for their very important testimony and also for the very comprehensive and thorough hearings that were held by the Armed Services Committee.

I want to put a general question to you.

We have been hearing a lot of testimony, as is reflected in the letters from the three Presidents that you quoted, as well as in both of your statements, about all the other things that need to be done in terms of our security. For instance, we have been warned that there will be a state of euphoria which is not justified by the facts, or that NATO must now move to beef up its conventional forces, and that we must not be led into thinking that the verification provisions in the INF Treaty will be adequate for START, if, in fact, we reach a START agreement. And so forth and so on.

That all may be to the point; in fact, I think most of it is to the point. But I would like, for a moment, to separate out those concerns analytically, because in a sense they are outside of the treaty itself.

In other words, regardless of all the other things that need to be done, if you just take the INF Treaty in and of itself, do you find any significant difficulties in terms of ratification?

Senator NUNN. Senator Sarbanes, we are going to continue our deliberations and we are going to have our whole committee meet tomorrow.

My overall assessment of the treaty is that it should be ratified. I think there is more positive than there is negative. I believe that there are certain amendments that may have to be considered, depending on the Culvahouse letter and how we resolve that; depending on some more deliberations in our committee.

So, I would reserve judgments on some amendments. But I don't think we have extensive amendments that need to be passed, and I would certainly reserve a judgment about whether any of them need to be amendments to be renegotiated.

I have not concluded one way or the other on that finally, at this juncture.

The CHAIRMAN. Excuse me. You don't necessarily mean amendments. You mean declarations or reservations, do you not?

Senator NUNN. Correct. Correct. It could be amendments to the articles of ratification or it could be in the form of a sense of the Senate, or there could be actual understandings or reservations.

Senator SARBANES. But the other matters to which you made reference are things that you feel need to be done in any event. In other words, they are not contingent upon the ratification of the INF Treaty, isn't that correct?

Senator WARNER. That's correct, Senator Sarbanes.

I think, as the committee delved into this, that the INF Treaty is perceived, while standing on its own legs for purposes of ratification, as being greatly enhanced if, at a subsequent time, a START agreement were reached. Senator Nunn, Senator Pell, and I also found this as we traveled through Europe to meet with the heads of state and government.

Senator NUNN. May I just add one word to that?

The reason these other matters are so important in the overall NATO framework, is because NATO relies on not only the use of nuclear weapons to deter or prevent nuclear war, but because NATO relies on nuclear weapons, even the early use of nuclear weapons, to deter or prevent conventional war.

NATO's declared policy is to use nuclear weapons first, if necessary, and that usually means in the theater nuclear sense, rather than in the strategic sense, but to use early nuclear weapons in order to compensate for conventional disadvantages.

That is why when you remove nuclear weapons, you have to consider it within the context of the overall balance, including the conventional disadvantages.

So, I don't think the two can be completely separated. But I would say that the problems I have identified with conventional defense were there before the first SS-20 was ever put in, or before the first Pershing II and ground-launched Cruise missile was put in on our side. Those problems are going to be there whether we ratify the treaty or not.

But I do think this context is important.

Senator SARBANES. That's right, and I appreciate that.

But you would not link ratification of the treaty—

Senator WARNER. No.

Senator SARBANES [continuing]. To the response to those other problems, I take it?

Senator WARNER. That is correct.

There shouldn't be any linkage.

Senator NUNN. I would not formally link. I would not have anything that required a waiting on conventional arms control. We don't even have a proposal for conventional arms control in any formal sense.

I would probably support some "Sense of the Senate" type approach that would make some very strong statements about the conventional imbalance and what has to be done both from the point of view of improving our own force structure and from the point of view of encouraging the Soviet Union to reduce some of the strong surprise-attack-type offensive capabilities they have.

So, something along the line of a sense of the Senate there I think may be very appropriate. There are members of our committee who may propose that kind of amendment.

Senator SARBANES. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Sarbanes.

Senator LUGAR.

Senator LUGAR. Mr. Chairman, the distinguished Senator from North Carolina mentioned at the conclusion of his questioning that the INF Treaty offers an excellent opportunity to clear up the ABM Treaty, and it could very well be that the committee will be invited to clear up several problems in foreign relations.

In fact, it is mind-boggling how many problems we could consider and dispose of. That, I suppose, is one of the problems that the committee will have to address; that is, how ambitious our agenda ought to be.

I read through the treaty many times, as have members. It is a fairly simple treaty, all things considered, fairly straightforward. I think Senator Warner's testimony has offered, in behalf of the Armed Services Committee, certain specific definitional problems. The chairman and the ranking member have pointed out their committee has devoted a lot of time to getting testimony to try to sharpen those definitions.

I suppose what I find to be a bit discouraging about the conversation this afternoon is that there are very considerable constitutional arguments that swirl around this. In the writing of the Culvahouse letter or other letters, profound constitutional issues have been raised that I am not certain have ever been resolved in the history of the Republic.

I am not certain whether we are going to be able to resolve them during these deliberations, although we may be faced with doing so.

In simple terms, and surely we will all want to argue about this a good bit more, it seems to me that Culvahouse was saying essentially that, when you get to a treaty, you look first of all to the treaty language. Many people may look at that language at different times in history. That, I think, is the speculative problem that the Senator from Georgia has brought to the fore. We don't know at what time in history somebody will examine the language.

But people say beyond that, of course, the practices of the parties involved are helpful. Surely the negotiating record is helpful in

that respect, as is, surely, the testimony of people who thought they knew what it meant at the time. As I just review Secretary Shultz' testimony, he is doing the very best he can to give his professional view of what this language means, and so are others. Certainly the negotiators themselves would have the best insight, having argued tens of hours on it.

But what if, as Senator Nunn has pointed out, and quite properly, someone down the trail says on rereading this, "I find something here that did not meet the eye to begin with"?

Now, the other party, in this case the Soviet Union, is likely to object and say "Well, you may have discovered that, but we don't share that point of view." And Members of the Senate, or the public, or the press, may object and say "This is really overreaching of the grossest sort."

You know, essentially we are having that kind of argument on the ABM situation in a way.

Certainly no one has offered unanimous consent on Judge Sofaer's opinion. As a matter of fact, it has brought a very severe argument which goes on every time the Armed Services authorization comes up or some other appropriate vehicle, and may continue. So, there are checks and balances when people read treaties and find these interpretations. I think that is important.

I would just hope that this treaty, which I believe has importance, by itself, as well as in the context that our distinguished colleagues have mentioned today as a part of our overall foreign policy and a part of our overall defense.

But looking, as Senator Sarbanes said, at the specific treaty, we have an opportunity to examine its language and not oblivious of constitutional problems but without trying to solve these because I think at that point we may have to finally come to grips with them and in so doing, we may subordinate the INF Treaty or the arms control process for a while. I think that would be unfortunate.

Let me just ask the distinguished Senator from Georgia, the chairman of the committee, this question.

As you take a look—and if you have already made a critique of the latest Culvahouse letter—and I understand what you were saying because we visited privately about some of the objections in the first letter.

Senator WARNER. Excuse me, Senator Lugar. I wonder, for the purposes of the record, if we could just say Culvahouse 1 and Culvahouse 2, instead of latest or earliest.

Senator LUGAR. Very well. Culvahouse 2 would be that of March 17, then.

In looking at that one, it occurs to me that he has attempted to say that the Shultz letter tried to address a different set of propositions. His response to me, the first one, was at my request on the Biden amendment. I think those are two different subjects, although I can understand the Senators wanting to sort of pin down all four corners on the thing, to make certain that we are not sliding by issues that are unanswered. Perhaps they can be.

I don't want to get into a quarrel with that because my own disposition is to be as accommodating as possible. As I have already indicated, to get into a constitutional struggle, although I am not certain how that will come out, I think would doom the INF Treaty

situation, and that I would hate to see occur. I know the Senator from Georgia feels the same way.

Are you suggesting in the responses that you made, Senator Nunn, to Culvahouse 2 that some further clarification is required?

What is the remedy that you see in order to become calm about the situation?

Senator NUNN. I think the remedy probably has to be the Senate of the United States speaking on the subject, the exact form of which I would have to reserve judgment on. But I don't think the Culvahouse letter No. 1 was even coordinated with the people with whom we spent 8 weeks negotiating the Shultz letter. I don't think they even saw it.

So, when you have an administration that is willing to send one letter from one group of people on a similar subject to what another group, including the Secretary of State, have been negotiating for 6 weeks without even consulting them, then I don't know whether any more letters are going to help.

I mean, I guess you can get a letter for anything you want out of this administration at this juncture on this subject. I don't know. But I don't think we are that far apart, Senator Lugar, in terms of working it out.

If you look at the Culvahouse letter No. 1, at the bottom of page 2, the last sentence, to the top of page 3, "As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification"—that sentence there I agree with completely. So, it is really a matter of the Senate deciding, I think, what that sentence means.

We have to decide—I don't think the executive branch can decide this—are our committees included in that process? Or, do committee activities have to be repeated on the floor?

Or what is a communication to the Senate?

We have always thought that it was through the committee process. If we can simply declare that the U.S. Senate works through its committees, which we all know we do, and that matters that have been received, authoritative testimony received before the committees is deemed to have been received by the entire Senate and deemed to have been focused on by the whole Senate, then it seems to me that we could go a long way.

So, I think it is up to us now. I believe we have to decide it. I am willing to work in any way we can to try to resolve it. I don't think we are that far apart on the Constitution itself. I think this letter here comes a long way along that line.

Senator LUGAR. Let me say that I agree and I think your choice of that particular paragraph is very important. It says, "As noted above, when interpreting a treaty, one obviously looks first and foremost to the text of the treaty itself. In instances where the treaty text is not dispositive or is unclear"—and that is really what we are getting into in the testimony we have been hearing—"under international law, one looks primarily to the negotiating record and subsequent practice of the treaty parties. But as a matter of domestic law," as you have stated, "the President is bound by

shared interpretations which were both authoritatively communicated by the Senate and the Executive," and what have you.

I think there is agreement.

Now, I suppose the international law—and the relationship with the Soviets, in this particular case, maybe we need to talk about some more—but it would appear to me that it is always to the advantage of our country to place as good an interpretation on the treaty as we can find.

Now you are making the point that in doing that, if we get fouled up in our own domestic law, we trample over the rights of the Senate, the committees, whatever, that is another question. I suppose the problem is not defining it in such a way that we make a disadvantageous situation for our country while attempting to satisfy our domestic law. I don't think we have to.

But at least as I read this thing the first time through, that is the way I saw it. It may not be too far away from your own interpretation.

Senator NUNN. I think that is right.

Then it goes on to say, the second sentence on page 3, "This is true," meaning that the shared interpretation is to bind, as a matter of domestic law, "even if the treaty negotiating record and subsequent practice indicate an interpretation contrary to that shared understanding."

I think our duty in asking the questions before the committee is to make sure that on any ambiguous question, we pin them down as to what it means. If we don't, then these sentences don't apply.

If we don't get a clear, definitive, executive branch statement as to what something means, then this does not apply. But when we do, then that is a shared understanding, and domestic law takes precedence.

So, I think that our challenge in carving out some way to get over this hurdle is to define what the role of the committees are. What is the role of the Foreign Relations Committee, the Armed Services Committee, and what does that testimony mean?

You see, we have received assurances that everything that we have heard before our committee will be checked by the State Department and by the authoritative people in the administration, and that any problems with it, anything they don't agree with, they are going to correct. We have been given that assurance.

And, of course, where we see there is some conflict, I think we have a duty to go back and say we have two conflicting statements.

So, it seems to me that it is not an insurmountable problem. We simply have to establish, as the Senate, what we mean when we say that testimony has been received or executive branch presentations have been made to the Senate. Does that include our committees?

The CHAIRMAN. Thank you very much.

Senator Cranston.

Senator CRANSTON. I yield first to Senator Sarbanes, who wanted to clear up one point.

Senator SARBANES. Thank you.

Mr. Chairman, as I listened to Senator Lugar, he made some reference to my focus on the treaty itself, which is quite true. But I do

think that there is a very real problem here on treaty interpretation.

I am inclined to agree with Senator Nunn that it may not be insurmountable. But I think that the problem exists at the moment.

I don't think an assertion in Culvahouse 2 that Culvahouse 1 is consistent with Secretary Shultz' letter is sufficient. I mean, you have to look at Secretary Shultz' letter and look at Culvahouse 1 and make your own judgment as to whether or not they are consistent. My own judgment in reading them is that Culvahouse is not consistent with Shultz, and his assertion in his second letter that his first letter was consistent does not make it so. You have to look at the content of the two letters in order to reach a conclusion.

I think the issue, very simply put, is the following.

I agree with the proposition that the first place you look for the meaning of a treaty is in the text of the treaty itself—obviously.

Now, suppose you have the text of the treaty. The Senate committees that are considering this treaty bring an administration witness in—the negotiator, for example, or the Secretary of State—and they say, "Well, now, we are not quite sure what this language means right here in the treaty. What does it mean?"

And then the administration witness lays out what it means.

Then the Senate relies upon that communicated meaning in order to ratify the treaty.

Can they later come along and repudiate that meaning? I mean, what is the binding effect of that authoritative communication as to the meaning of the text of the treaty?

It seems to me that we have to have an understanding about that. Otherwise, this entire exercise on the part of the committee in effect becomes irrelevant.

As Senator Nunn pointed out, President A, President B, or President C, who comes in later, can simply throw the whole thing out and begin to apply a treaty whose meaning is directly or significantly at variance with what was laid out before the Senate at the time the Senate was grappling with the question of ratification.

I do think that is a matter of constitutional dimension, and I think we need to address it.

I am inclined to think, as Senator Nunn has indicated, that it is not insurmountable, and that we may figure out a way to overcome it. But I do think we have an important matter before us.

Senator NUNN. I might just say that I completely agree, Senator Sarbanes.

The CHAIRMAN. Senator Cranston.

Senator CRANSTON. First, I welcome the very helpful testimony both of you have given, and I want to express my admiration for the thoughtful and thorough way in which you, two, and your committee have approached this problem.

I concur with the view that this issue of how we interpret this treaty is the major stumbling block that confronts us in regard to this treaty now, and it could create grave peril for this treaty if we do not resolve it.

I have been doing my best to work with the administration to move this treaty along, and resolve whatever problems arise. This, I think, has been badly handled by the administration, mishandled

very badly. A series of letters that are contradictory have come to us and other events have occurred that have created a real barrier to proceeding effectively with this treaty.

I welcome the indication from Senator Lugar that he wants to seek to find a solution. I think we have to find one.

I agree with Senator Sarbanes and Senator Nunn that we ought to be able to work this out.

I also agree with Senator Lugar that we shouldn't try to resolve all questions that relate to this or to a lot of other problems that confront us and confront the world and our Nation on this treaty.

Senator Nunn has stated that he doesn't want to resolve the ABM matter as we cope with this treaty.

I think, also, we don't need to resolve this issue for all time as we handle this particular treaty. But we certainly have to resolve it as it affects this treaty.

Otherwise, we don't know what we are doing when we ratify it, and if we don't resolve it in some way now, we're going to have that negotiating record hanging over us, and examination of it, which might take a long, long time.

Senator Nunn has indicated that, if it is not resolved, there are certain ambiguities that he is going to have to resolve as he fulfills his responsibilities as chairman of the Armed Forces Committee, and that would come in the form of recommendations back to this committee or in the form of action on the floor, which could tie us up for a lengthy time and mean that this treaty might be delayed for a very substantial period.

So, we have to do our best to resolve the problem as it relates to this treaty.

Senator Nunn, I have just one question because I want to expedite our moving on to the work of this committee in trying to commence markup.

Did you indicate a little while ago in your response to a question that the probable alternatives that are before us are either some sort of understanding attached to this treaty that we try to work out in a bipartisan way, not necessarily sticking to what the Biden approach is, or did you indicate that another approach could be a truly authoritative letter from the administration, superseding all others, which would, I think, at this stage, have to come from the President?

Senator NUNN. I must say, Senator Cranston, that I am dubious about letters from the administration on this subject.

Senator CRANSTON. I can understand that feeling.

Senator NUNN. This first Culvahouse purported to speak for all of the general counsel all over in the various departments. But my information is that it did not. They may have seen a draft, but they did not sign off on this letter.

That is my information, and I may be wrong.

So, I don't know how you would do it with another letter. I believe that the Senate has to speak to it.

But I believe that, in speaking to it, we can do it in a bipartisan fashion. I don't think that we have to speak to it in a fashion that prejudices the case of either the broad or narrow interpretation of the ABM Treaty.

That is not my goal.

I would not exclude another letter. But you are absolutely right. If it comes, it has to come from the President. He is the only one.

I don't know how you interpret differences between the Secretary of State and the Legal Counsel to the President. I don't know what order of priority there is in the executive branch in that. Only the President could sign a letter at this stage.

But I am very dubious about any more letters.

Senator CRANSTON. Fine. Let me just add one point.

I think it is very important that we try to work this out among ourselves in the Senate on a bipartisan basis. I think it would be extremely unfortunate if we had to resolve this on a partisan basis in this committee and perhaps have a 10-to-9 vote supporting some resolution that was opposed by all Republicans on the committee. That would obviously lead to grave difficulties for INF on the floor of the Senate.

So, I am willing to do all that I can to work this out in this committee, and I would urge all others interested in getting this treaty moving to do likewise. We obviously should be consulting the top people in the Intelligence Committee and the Armed Services Committee as we undertake that task.

Senator LUGAR. Will the Senator yield for a question?

Senator CRANSTON. Yes.

Senator LUGAR. Is it possible—and I ask this as a three-way dialog, maybe more—that the Senate could deal with this question of interpretation in some other way, other than the form of an amendment on this treaty? In other words, perhaps there could be some independent vehicle?

Senator CRANSTON. May I say that I have been exploring that. We have to have something that would be signed by the President, and there is no seeming vehicle available for that purpose that would get all the way to the White House until some time in May. So, that would mean a substantial delay unless we do it on this treaty.

Senator LUGAR. I suppose a second question is, Is it a question that is of grave importance to the point where we really need to settle the interpretation issue before we start the markup.

In other words, we are getting to the point, it seems to me of dependence upon language and testimony and ambiguities of the essence in terms of our consideration as the logical step, and I raise that.

Senator CRANSTON. May I respond to that?

The CHAIRMAN. Senator Cranston.

Senator CRANSTON. It seems to me that this is the most difficult issue confronting the Senate and confronting the treaty, and it is not going to be resolved at once.

I should think we should have two parallel operations going on: One, proceed with markup, where we don't have disputes, and where we can establish the pattern of working together on a bipartisan basis, as I believe we can, and meanwhile, be trying to find a solution to this, and leave that until we find that solution. If we stop all other work until we find that solution, we may have a long stop before us.

Senator SARBANES. There is no guarantee that there might not be other disputes of some consequence that the committee would

have to resolve. It seems to me that we could move ahead, addressing those while the efforts were being made to see if there is a skillful and constructive way to solve this particular question.

The CHAIRMAN. I believe there are more than 40 amendments, for example, that remain to be handled.

Would the report be a suitable means of perhaps handling the question of Senator Nunn, report language in the bill?

Senator NUNN. Mr. Chairman, I think the Senate has to speak to it. I don't know exactly the form and I don't think there is just one answer. I think there are ways we can explore this.

I believe, though, before the treaty itself is ratified, the Senate has to speak to this.

The CHAIRMAN. Thank you.

Senator CRANSTON. Mr. Chairman, may I just make one more comment on this point?

Just as to the need for expeditious action by this committee, I think it is obviously important for us to try to resolve all questions that relate to this treaty, including the one of interpretation of this treaty so that we can get the matter resolved first in this committee, then on the floor of the Senate, and the ratification of the treaty approved by the Senate before the President goes to Moscow.

That does not mean that we are negotiating arms control matters under a deadline. It does mean that it would be advisable to have the President go to Moscow, to the next summit, with this matter resolved, so we can move on to other matters.

If this matter was left hanging, I think that would be a rather difficult summit, and it obviously would be very difficult to come to grips with other issues that divide the United States and the Soviet Union but bear within themselves the seeds of bringing this together as we resolve mutual problems with that country.

The CHAIRMAN. Thank you very much.

Senator Pressler.

Senator PRESSLER. Thank you very much.

I think we are very privileged to have two of the most knowledgeable men in the United States, indeed the world, on military affairs and I am very pleased to listen to your testimony.

Let me ask a question to you based on your great expertise in military matters about some of the earlier statements of our military—General Galvin, the Carlucci report in January—on the implications of the INF Treaty. They seem to have shifted somewhat regarding our forces in Europe. And, by the way, I very much admire the work both of you have done in that area. I voted for the Nunn amendment a few years ago.

But, originally, many of the witnesses seemed to condition their support of the INF Treaty on appropriate modernization efforts yet to be undertaken.

As the hearings proceeded, however, that proviso seemed to disappear, and I recall in December, reading in the New York Times an article that the President had visited some of our allies, or had sent a message to some of our allies, rather, assuring them that there would be extensive modernization of conventional and chemical forces, et cetera, or of certain other forces in Europe to make up for the INF Treaty.

I note the same theme in Gerald Ford's letter. He says, "Members of the U.S. Senate who vote for ratification of the INF Treaty must recognize their commitment to NATO's conventional arms improvements. It would be foolhardy to ratify an INF Treaty that did not adequately achieve balance and strengthen NATO's conventional capability. We must never forget that NATO has been the military force in being that has maintained peace on the European continent for the longest period in the past 200 years," and so forth.

Of course, your fine report addresses some of these issues. But, as a practical matter, with the sizable deficit that we have, and with the projections—and I will be around here until at least 1991—can we expect you, as our leaders in this area, to be seeking major increases in appropriations and authorizations in terms of our forces in Europe as a result of this treaty?

Senator NUNN. Senator Pressler, I think the initiative in that respect would have to come from the executive branch first.

I would say that I have been pursuing my priorities in terms of joint projects, research, joint work in procurement, trying to get more for our dollars, for a long time.

Senator Warner has been in the same category.

NATO outspends the Warsaw Pact very year. We have not been outspent in an alliance-to-alliance measurement for 30 years, perhaps with one occasion being the exception, and that is in dispute.

NATO countries have about three times the gross national product of the Soviet Union and the Warsaw Pact. So, I don't think the inherent problem is a lack of resources, although we can always do better with more. The problem is that we don't spend the money in an effective and efficient way. We don't work together.

Everybody has a different antitank weapon. I think we have 14 different antitank weapons.

A lot of the NATO equipment is not interoperable. If we give out ammunition on the battlefield, or one of our European allies does, it may be the case that the country right next door has ammunition that is not interoperable, and it won't fit into the guns. A lot of the fuel won't even go into the same nozzles for refueling.

So, we are wasting huge resources.

That is what I had hoped the NATO summit conference would address.

I have watched it at the lower levels for a long time, and I include myself at a lower level here. I believe that the only way you are going to get the kind of really dynamic increase in NATO capabilities is for the top leadership, the President and his counterparts around the European theater, to get together and say "Look, this has gone far enough. Our taxpayers and our military men and women deserve more. We have to start buying from each other. We have to start having an international NATO type market for the procurement and research and development of weapon systems."

I think we have almost the ultimate in protectionism. We debate protectionism on the trade bill.

If you want to see protectionism personified, watch the way NATO buys its military equipment. It is the least efficient way possible.

If the commercial world operated like this, if our European friends and we, and our Japanese friend operated in the commercial world the way we do in the NATO military world, the gross national product of our collective Western World would be nothing like it is now.

So, I would say the problem is more than a resource problem.

The other dimension I would add is this is not just a problem where the United States is concerned. In the early 1980's, we increased defense spending 10 or 12 percent a year for 2 or 3 years. We looked over our shoulder and the allies were not there in terms of commensurate effort.

So, it is a collective effort, and we need to move in parallel with our allies.

Senator WARNER. Senator Pressler, if I could make an observation, I think that the INF Treaty came into being for a variety of reasons. First, the President. Under President Reagan's direction, a strengthening of our own Armed Forces—particularly strategic forces and their modernization occurred. A second reason was the coherence of our allies—especially their 1979 decision to bring in land-based missiles. These actions prompted the Soviets to return to the bargaining table and eventually the INF came forward.

Unless we have a parallel determination to modernize the conventional forces—to add to those forces where necessary to compensate for withdrawn INF weapons, what is the inducement to the Soviets to sit down and seriously negotiate the asymmetries in the conventional forces between the Warsaw Pact and the NATO forces? The only self-inducement that I can think of may be their economic situation.

The CHAIRMAN. Thank you very much.

Senator SARBANES [presiding]. Senator Adams.

Senator ADAMS. Thank you very much.

I appreciate very much, Senator Nunn and Senator Warner, your being here. You are highly respected by everyone in the Senate, and I think your testimony has been very analytical.

I would like to state first my concern and then potentials for a solution.

All administrative witnesses including the Joint Chiefs of Staff, as well as the former Secretaries of State, who have been here before us, have said that this treaty is necessary to our security interests and that it would be incredibly detrimental to NATO and to our interests if this treaty were not ratified.

I see a potential tragedy at this moment relating to this treaty because we have a procedural and constitutional dispute with the President.

As Senator Warner, I have served in the executive branch, and I share, Senator Nunn, your sense of outrage and discouragement at the separate letters that have been received.

I have seen it happen before and it will probably happen again.

But I would be hopeful that you might help us, and by "us," I mean a bipartisan majority on this committee because we will not get this treaty out during the lifetime of this present administration if we proceed in the present manner that we are. I think everyone agrees on the treaty.

We have some disagreements on how we address the interpretations issue.

I saw Secretary Shultz' original letter and I have it here. It is my understanding from your testimony, Sam, and from others, that basically we had this solved until we got into another exchange of letters.

Is that correct?

Senator NUNN. I believe we had it solved, I think we had about 80 percent of it solved. The one remaining thing that was not solved that the Biden amendment attempted to address was what happens in terms of future administrations. Are future administrations bound or is it simply the Reagan administration that is bound?

As far as a authoritative testimony, that was solved. As far as the negotiating record, the definition thereof, that was solved by the Shultz letter.

As far as not having the Senate have to act on each one of the ambiguities that is clarified in committee, to me that was solved.

But when you had this subsequent letter come forward, it unwound those solutions and the remaining 10 percent, the 20 percent that had never been addressed, that Biden was attempting to address, remains unsolved.

So, we had one cloud, but we now have all of the original clouds reappearing in the sky.

Senator ADAMS. I am hopeful here.

Now, I am just a trench soldier in this, and as a trench soldier, I see a great necessity that we find a way to move this treaty through without renegotiating it with the Soviets for the interests of this Nation and for the interests of Europe, our allies, and the countless hours of testimony that we have heard to that effect.

I am prepared to fight off amendments that go to different interpretations on how many missiles are covert missiles and so on.

But this situation on treaty interpretation can be fatal.

I was hopeful that you might be able to look toward a bipartisan consensus. I am hopeful that Senator Lugar and the other members of the committee can so that we don't come out with a 10-to-9 vote in getting this out. We perhaps can have a bipartisan vote, on a condition that would say the statements of the Secretary of State and the following Executive representatives represent the administration position and interpretation on this matter. And then, for purposes of this treaty, we will not solve the total constitutional debate. And I deeply appreciate the fact that you have separated the ABM debate out of it, and I think potentially we could limit it on this treaty for future administrations.

This should be done by a nonbinding condition or whether this is done by a letter from the President. I agree with you, I think it is tragic that the Secretary of State has been undercut in this matter. You should only speak once out of an administration. But I am searching with you and with Senator Warner, Senator Lugar, and Senator Pell—all of us have tended to be supporters of this treaty—for the most expeditious way of moving this through this committee and onto the floor, so that we could have consideration.

Would such action obviate the need for further action to address the ambiguities identified on page 14 of your testimony? Can we

get a general statement to avoid going item by item through a series of ambiguities, because I don't see a way that we can get through this treaty on that basis during this summer or fall?

Senator NUNN. Well, I will certainly pledge, Senator Adams, to work with you and with the chairman and the ranking member, Senator Lugar and Senator Cranston, Senator Sarbanes.

Senator ADAMS. I am including all. I am just mentioning the ones you have indicated have been in on this. I just don't think we ought to shift teams at the critical mass point, but please go ahead.

Senator NUNN. I will work with you in any way to resolve this. And I am not trying to solve every constitutional problem. I just think that we have got the essential question of what is authoritative in terms of testimony.

Senator ADAMS. Can we do this with a general statement, and then a reference to specific testimony. To me, this should be done by referring to witnesses which came up from the administration, they testify, are cross examined, and then you thereby say these are the authoritative ones, which gives control to the administration and control to the Senate of what are the items that they are relying on.

Senator NUNN. Well, that is correct, and the second critical point though is has the Senate itself focused on these matters when the committees have been the focal point.

Senator ADAMS. All right. Now, if we use——

Senator NUNN. And that is critical because otherwise you have to repeat everything that you do in committee.

Senator ADAMS. Absolutely, and this is what I am trying to avoid. I hope we can arrive at an agreement that we have a very elaborate committee apparatus set up in this body, and that if we do not use that system, and we do not use the testimony of the administration witnesses, we are lost, it is hopeless. And therefore I think we have to try for a general statement that allows for a confirmation that satisfies us that the manner and use of the committee system here is agreed upon between the administration and the Senate, and as a general principle, these people's testimony is what is relied on.

Senator NUNN. I generally agree with that. I think the foundation—and this is the dialog I was having with Senator Lugar a few minutes ago—the foundation for an agreement here is found at the bottom of page 2 of the Culvahouse letter No. 1, and the top of page 3, and I will read those sentences again because I believe that this is the foundation that we can build on to solve this problem in some satisfactory way.

Senator ADAMS. I agree with those sentences. I have it here before me.

Senator NUNN. Quoting from those, "as a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification."

Continuing to the second, I think, important sentence, quoting again, "This is true even if the treaty negotiating record and subsequent practice indicated an interpretation contrary to that shared understanding."

Now, I think those two sentences are something we can build on here.

Senator ADAMS. That is what I was attempting to do. That is why I was not going to go back through it with you, but I am pleased that you did. I was trying to take the next step so that we do not go out of this hearing room today with the impression being left that Senator Nunn and Senator Warner really have serious doubts about this treaty, and that therefore its chances of moving before sometime in the late fall are very poor. I was trying to take the next step up, which was to define what that series of evidence is, so that both the executive and legislative branches can have the same interpretation of this treaty when we vote and that it not require a renegotiation. That is what I am trying to get from you.

Senator NUNN. I do not see why this would require renegotiation at all. This is not—they are not part—

Senator ADAMS. And it can be done.

Senator NUNN. That is right.

Senator ADAMS. Without individual referrals. It can be done by defining our system, and validating it. By that I mean our senatorial system of committees and testimony and validating it.

Senator NUNN. We have to establish what these committee hearings mean. The Senate has to speak to this.

Senator ADAMS. Right, and which witnesses and how it is done, but that is a Senate action based upon validating the evidence of our system.

Senator NUNN. Correct, I agree.

Senator ADAMS. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Adams.

Senator EVANS.

Senator EVANS. Thank you, Mr. Chairman.

I came here today to this very last hearing before markup figuring that we had relatively clear sailing. I think what we have heard in the recent exchange and in the repeated references to the potential of a 10-to-9 vote, I do not know how that count has come, is ominous indeed. Frankly, this is the most distressing hearing I have been to since we began this effort several months ago.

Before getting back to that, however, let me ask one question of Senator Warner.

Senator WARNER. I do not know if I would characterize the procedural ratification process, as distressing at least not in terms of the substance.

Senator EVANS. Well, if we are talking about threats that we will end up with 10-to-9 vote somehow, that is pretty ominous, indeed. If that ratio is repeated on the floor, there will not be enough votes to pass the treaty. But I am going to get back to that.

I had one other question. On page 4 of your statement at the top, you said, “* * * regrettably, however, I must conclude at this point that there remain possible discrepancies between information contained in the negotiating record and that provided as part of the ratification record such as the article-by-article analysis. These issues must be resolved as part of the ratification process, and I urge the Foreign Relations Committee to address each of them.”

Does that refer to each of those delineated—

Senator WARNER. Not necessarily each, but some, preceding that.

Senator EVANS. But only those. Were there others?

Senator WARNER. No, there are some others.

Senator EVANS. Were there other elements outside of that?

Senator WARNER. Yes. I did not attempt to list them all here.

We will begin a proceeding tomorrow—

Senator EVANS. Where will we find those?

Senator WARNER. We will compile a record in the Armed Services Committee tomorrow of those issues which concern members. The chairman and I are trying to devise a procedure where there will be actual votes, so that we can get a very clear and precise record of the division within the committee.

Take article 14. I mean, that is a major one. The elimination of a ground-based Cruise system is a major issue.

Senator EVANS. And that will be then transferred to us?

Senator WARNER. As I prepared this testimony, I felt that I should be candid. This is the committee, so to speak, of original jurisdiction, and although we have an ad hoc jurisdiction which we are discharging, no action taken by the Armed Services Committee is binding on this treaty or binding on the Senate in any way. Therefore, we want to alert you to the problems that we have discovered.

To the credit of Chairman Nunn we sat down with Ambassador Glitman and went through the treaty, article by article. Each member present had an opportunity to express their concerns about those articles.

Senator EVANS. That would be very helpful, I think, for all of us when we get into the markup.

Let me go back to the concerns I have. First, I have tried to read as carefully as I can, although since the letter just arrived I am not so sure that there is as much controversy or difference in the first Culvahouse letter and the Secretary of State's letter and even the second Culvahouse letter. It seems to me in reading it that there is probably a focus on the changing the rules of treaty interpretation at the bottom half of page 1. But beyond that, once you get to the second paragraph of page 2, he is really dealing specifically with the specific Biden resolution in his analysis of section 1. The next is the unconstitutional mechanism for altering treaty interpretations, which Secretary Shultz never focused on. He was not asked to.

But that is—

Senator NUNN. You are correct.

Senator EVANS. Then I think that you say as a matter of domestic law that that may be the kernel for agreement. Beginning in the middle of page 3 you talk about the ABM Treaty and goes on from there. It seems to me, then, we can focus on about one or two items in the Culvahouse letter that may be of some question, and I would guess that the fundamental one is that bottom half of page 1 and the concern about the "relative dignity," ascribed to various testimony.

Senator NUNN. That is one of the fundamentals. The other fundamental is page 3 where the clear implication is the Senate as a whole has to focus on an ambiguity. Otherwise—

Senator EVANS. I understand.

Senator NUNN. Those are the two.

Senator EVANS. OK. It seems to me that one of the really potential problems may be inadvertent but nonetheless very real. You mentioned several hypothetical future administrations. How about some future date under a President Nunn administration when you may have to face up to the fact that what we—administration, Senate, everybody—thought were fairly clear and unambiguous elements are no longer so. But rather in the light of new facts, new circumstances that we could not have anticipated, when those new facts are applied to the treaty and all of the record and elements, that provide some ambiguity, some choice which has to be made.

Then what does a President do? Does it not make sense to say that if there is an ambiguity, and the ambiguity is between testimony of an administration witness at a hearing and the statement and presentation, say, of the Secretary of State on the same subject, do you not think the future President would probably give a little more emphasis to the presentation of the Secretary as opposed to the other?

Senator NUNN. I think that you have different weight you might attribute to different administrative statements, but I do believe that the dignity of those statements in terms of being authoritative has to be on the same plane, because we did not even call Secretary of State Shultz before our committee. We did not want to duplicate the Foreign Relations Committee. We dealt with Ambassador Glitman.

Now, I would be perplexed, to say the least, and I am sure my colleague from Virginia would, to find that unless we called the Secretary of State, that Secretary Glitman's testimony is not accorded the same dignity.

Let me just mention your hypothetical.

Senator EVANS. Let me just interrupt there that I suspect the term "dignity" was not a very good word to use. In looking at it in its context within the remainder of the statement, I think it has the meaning of weight or at least that was the intent. It is not a very good word to use, perhaps, but certainly "weight" used there instead of "dignity" probably would have assuaged much of the problem we have.

Senator NUNN. It would have been an improvement.

I still think it would contradict the clear understanding we have had with this administration before our committee. But let me take your hypothetical about some new material coming up that was not anticipated during the deliberations.

I would say that if that is the case, we would not have had a shared understanding on that. And matters where you have not had a shared understanding are clearly matters that have to be interpreted in the future. It is only matters where there is a shared understanding, where they have come up in the committees and you have had them addressed by administration officials. Those are the only things that I think are really alluded to in terms of any kind of binding effect.

There may be a lot of things that do not come up in any of these hearings and that we never anticipated, and those matters are not shared understandings, so they would not fit under this framework of trying to have the Senate assured that when we ask the question

and we get the answer, No. 1, it is authoritative; No. 2, that we can count on it.

Senator EVANS. Although I cannot describe one, I can conceive of some circumstances where we may have thought we had a shared understanding or did have a shared understanding, only to find that under new circumstances, one side or the other or both were mistaken in their shared understanding. At that point, would you agree that an administration in the normal operation of the treaty has to make the best interpretation they can out of those new circumstances?

Senator NUNN. I think at that point the administration would be very wise to come back to the Senate of the United States, as they have throughout history, to get some reading from the Senate of the United States, either formal or informal.

And there are two ways. We had an amendment to the protocol of the ABM Treaty in 1974, and they actually came back and the Senate went through a ratification procedure again, or advice and consent to the ratification again. And we also have another way you can go about it. Domestic law can override any treaty. So, you can have a simple piece of legislation passed by the House and the Senate that would change.

Senator EVANS. If there is a real dispute between an administration and a Congress over how a particular domestic law is to be applied, is that not ultimately and potentially resolved through the courts as in the case of other such disputes in domestic law?

Senator NUNN. I think the Supreme Court has got enough to do without getting into this—

Senator EVANS. Oh, I am not suggesting it is a good forum. But is that not where we resolve executive-legislative disputes?

Senator NUNN. Well, as a matter of historical interest, it has not been that much back in history, either, when President Carter terminated the Taiwan treaty, there indeed was a Court suit brought by Senator Goldwater and many others, a number of Senators here, that asserted that the President of the United States could not terminate a treaty without approval of the Senate.

That Court case was—there were many different opinions by the Judges in that case, but in the final analysis it was dismissed not on the grounds that the Court would never entertain such a dispute, but on the grounds the Senate had not spoken on that subject, that the suit was not reflective of the Senate or the Congress and therefore there was no standing.

So, you have got a clear statement of when the Court could get involved.

Senator EVANS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator McConnell.

Senator McCONNELL. Thank you, Mr. Chairman.

Senator Nunn, I think in your opening comments you alluded to Senator Levin's recently completed subcommittee study in which, he said, in effect, there was a qualitative parity between the Warsaw Pact and the NATO forces.

I am wondering what your views are about his report.

Senator NUNN. I have come to a more stark conclusion. I think that there is not parity in the conventional arena. I believe that

Senator Levin has a very valuable report because he pointed out that there were a lot of ways to measure, and you should not simply have a bean count or a quantitative analysis, tank versus tank, artillery tube, manpower, planes, and so forth, and he pointed out things like training, the morale of the forces, the quality of weapons systems, all those things had to be considered.

So, I agree with the main points of the Levin study, but I must say I am more uneasy about the balance than he is on that.

Senator McCONNELL. In other words, once you factor in all those points, you come to a different conclusion?

Senator NUNN. Well, I do because our military people have for a long time, and NATO military people have. I do believe that there are some imponderables. For instance, I think that the Warsaw Pact and the Soviet Union would be very fearful of any kind of long war. I think that is the reason they are postured for a blitzkrieg-type attack, because in a long war, they do not know what the Eastern Europeans are going to do. They do not know about their lines of communication across Poland and East Germany. They do not know what the Chinese may do on the border. So, I think they have some uncertainties, whereas we have a lot of uncertainties.

And I believe that there really is an area of mutual interest here. If the Soviet Union wants to ease the Western approach to early first use of nuclear weapons, then the way to do that is to dramatically reduce their tank forces in Eastern Europe. They can also save an awful lot of money this way.

When I was in the Soviet Union, I said two or three times that what we need is disproportionate reductions. The Soviets need to reduce a lot more than we do. And I said that is a great advantage to them because they are going to get to save more money than we are, and I was not being completely facetious. That is their prime motivation now for conventional arms control.

We also need to give them some military incentive with some of our technology and so forth.

Senator McCONNELL. Of course, that is the kind of step that would force Gorbachev to confront his own military complex.

Do you think he is in a powerful enough position to pull that off?

Senator NUNN. Well, I think we have got to test the waters.

The thing that I regret about NATO's position now, is we do not have a proposal on the table. If the Soviet Union came over here today and said we will agree to anything you table on conventional arms control, you put it on the table, we will agree to it, we will give you absolute verification, we will do anything you want to do, just give us the agreement, NATO could not give them a proposal.

We have the conventional imbalance, but we have not made the proposal. This is the ultimate arms control test is the conventional, and we have not tested it.

Senator McCONNELL. Is it still your view that NATO is spending more, but the Warsaw Pact is in fact producing more tanks, planes, artillery, and submarines?

Senator NUNN. We are outspending them collectively. Now, there are years where the United States has been outspent by the Soviet Union, and my comparison relates to alliance to alliance. The NATO alliance has not been outspent by the Warsaw Pact but

maybe one year over about 30 years. So, my feeling is that we need to have a major effort to get more from our collective resources.

Senator McCONNELL. On that point, what is your current assessment of the allies' commitment to contribute their portion of joint projects over the next 5 years? For example, the effort to develop a NATO frigate is supposed to involve the United States, U.K., Canada, France, Germany, Spain, Holland, and Italy.

Where do you think those kinds of joint funding projects are likely to go in the next 5 years?

Senator NUNN. Senator McConnell, I think you have identified a very important area. These are the joint research projects where the United States put up a pool of money, and we said to our allies, now, if you put up your part of this pool of money, we will jointly research these projects, with the hope that those projects that prove to be viable, we will go into on a joint procurement basis, the idea being if you start together, maybe you can continue through procurement.

We have about 15 of those that are subject to memorandums of understanding. We have different combinations of countries involved. Some of them are going to end up being programs that do not work. Part of research is to make sure a program works before you go into production. So, we are going to have to kill some of them.

But I hope we end up having a joint effort with a number of these programs. If we do, and if we can keep those programs going, and join them with others, we can do a lot more with our money.

So, it is beginning, and I would have to say I give Secretary Weinberger and Mr. Taft and others in this administration good marks for pursuing this, Dennis Klosky, Ambassador Dave Abshire, all of them have really been pushing it.

It is going to have to have some high level push, though. It is going to have to come up at some summit meetings. We are going to have to understand it here in the Congress, too, because here in the Congress we have a tendency any time one of our constituents is involved and they are losing out to a joint program that may be produced in another country, like in Germany or France, to say "Wait a minute, we have got to buy American."

Now, what we do not realize is that by insisting on those kind of efforts that may appear to be in our own interest at the time, we are ending up undercutting the whole NATO alliance, because if we can buy more from our allies, they in turn will be able to buy a lot more from us; we will be the net beneficiary in purely economic terms because we will be able to sell more in this area.

But we cannot look at every program as a parochial interest.

So, part of the burden falls on the Congress here.

Senator McCONNELL. That was going to be my final question, and you have really addressed it: What is the extent to which the "Buy America" sentiment expressed around here on almost every issue that comes up is having an adverse impact on the joint funding of these kinds of projects.

Senator NUNN. If we get a superior weapons system in Europe where we can buy it cheaper and it is better, then I think we ought to buy it, and we may be inconvenienced from time to time in our

own areas, but overall, if the Europeans see us doing that, then hopefully they will buy a lot more of ours.

We have all gotten to the point where, as Tom Callahan has said a good many times, we are engaged in inadvertent unilateral disarmament. If you look at the number of airplanes we are able to buy now compared to 10 years ago, even the last administration versus this administration, we are getting where we are spending more and more and buying fewer and fewer units, and the old saying is that at some point quantity has a quality of its own. And that is what we have got to really watch in this situation.

The CHAIRMAN. Thank you very much.

Senator Kerry.

Senator KERRY. I would like to thank both of our distinguished colleagues for their testimony. I did not hear it, but I have read both of them, and I think they contribute significantly to the dialog.

I think the nub of the question obviously before us is this interpretive issue. I think the extent of the Armed Services Committee, Intelligence Committee, and Foreign Relations Committee's efforts here over the course of these last few months are their own best statement of the degree to which the equation about interpretation has been changed as a result of the administration's approach on the ABM Treaty, which is obviously why we have sought so hard to clarify each sentence, each word, our understanding, and to deal with this adversarial relationship, which is frankly new in terms of the treaty interpretive process.

I just have a couple of questions regarding that.

Senator Warner, in your testimony on page 4, you refer to that negotiating record and said that these issues, referring to the article-by-article analysis, must be resolved as part of the ratification process, and I urge the Foreign Relations Committee to address each of them.

Were you specific at any time in the course of the testimony I did not hear today in suggesting how we should do that, and if so—

Senator WARNER. No, not how you should do it. I would not be that presumptuous. It is just that when you take our record—

Senator KERRY. Well, I would like to ask you how you think we should.

Senator WARNER. My suggestion is this. We will be developing a record tomorrow based primarily on issues where our membership has a divided opinion. We will take the issue, examine how we questioned the witnesses, and determine whether answers satisfied members' concerns about particular provisions. The Foreign Relations Committee will then have the benefit of 19 Senators looking at, say, article 14, and deciding what should or should not be done with article 14. We will then pass that record to you.

And I believe that our members, and perhaps others, will raise that same issue on the floor of the Senate. This committee will perhaps have some dispositive solution.

Senator KERRY. Second, Senator Nunn, with respect to this question of Culvahouse 1 and 2, and the administration's attitude about interpretation, you agreed with Senator Adams, and I agree with Senator Adams that this is really a functional matter to be decided

by the Senate, and clearly not one with respect to reinterpretation, et cetera, subject to negotiation or any further question about the treaty itself.

Senator NUNN. Correct.

Senator KERRY. But how—is there a way while you remain skeptical about letters from the administration, given the administration's desire to see this ratified, given their support of the treaty, given the at least expressed predominant support of most members of the Armed Services and Foreign Relations Committees, thus far, at least as to matters substantive, is there a way that you can see the administration curing this discrepancy in very short order?

Is there something that could happen in the course of the next day or so that might remove this question and obstacle of interpretation from our deliberation?

Senator NUNN. Senator Kerry, I wish I could tell you that I had an easy answer. I think that it would be the ultimate absurdity, though, if these two letters were to be the roadblocks to what would have otherwise been a rather smooth process of considering this treaty. So, I think there has got to be an answer, and I believe that we can work together to find an answer. I think that it is not going to be easily solved by a letter, though.

Senator KERRY. Well, the letter comes from the Counsel to the President; correct?

Senator NUNN. Correct.

Senator KERRY. Would there be some way that we might have the letters dispositively clarified through the Secretary of State himself and the President himself, by either individual letter, joint letter, some statement that we received which would be made a part of the record, because it seems to me that Counsel to the President, while obviously important, I am not sure what the legal impact of his statement is in the first place with respect to what it means.

So, if the Secretary of State were to address this issue, or the President himself were to address this issue, perhaps that would put the issue behind us very quickly, would it not?

Senator NUNN. I would not rule it out, but I must say I am skeptical. I believe that in that approach, certainly the President could overrule either the Secretary of State or his legal counsel, no doubt about that, but the question is what is the letter going to say? What is the substance of it?

I called Senator Baker, former Senator Baker myself Friday afternoon as soon as I saw this, and we brought it to his attention, and we had several staffers go down to talk to Mr. Culvahouse and others, and we conveyed to the administration that they had to address these inconsistencies head on. But instead of that, we get this letter No. 2 that simply asserts there is no inconsistency.

If anybody reads these two letters carefully and comes to the conclusion there is no inconsistency, then I question the value of their legal opinion to begin with.

Senator KERRY. Well, I do not disagree with you.

But would it not perhaps be something to set on the table that if the President of the United States were to submit to us what he and the Secretary of State hold to be the authoritative version as to how we interpret and what the lasting value of that interpreta-

tion is as to administration witnesses, is it not your feeling that that would be dispositive?

Senator NUNN. I do not know. I think at this point I would be more inclined to having the Senate act on it. I do not know why we cannot get Republicans and Democrats on this committee, and we would help any way we can, to simply sort out what the role of this committee is and what the role of the other two committees with jurisdiction are. Is the testimony before our committee, where it is clear testimony and where we have asked the question, is that testimony authoritative and is it going to be binding on the administration, or on the other hand, do we have to go to the floor of the Senate and have the Senate act on every one of these ambiguities? It seems to me that is a matter that the Senate ought to be able to speak to, and even if the administration does not agree. I think it is in the interest of Republicans and Democrats alike who value the Senate as an institution and value our constitutional process, independent of this treaty or any other treaty.

It is not going to take away the arguments on broad versus narrow on the ABM Treaty. You can argue that all day long. I am not trying to solve that. But I think we all have a stake in the institution. We have a stake in the treaty process, and particularly those have a stake in it who may oppose this treaty. They have a stake in making sure that the testimony we get is authoritative and that we really know what the answers are, and indeed, that that is going to not only be binding on an administration that will not be in office but 6 or 8 more months, but it is going to be binding in the future when we have had a shared understanding between the Senate and the executive branch.

Senator KERRY. Well, as you know, and we have discussed this previously with respect to the ABM, I do not have any question, and I am not sure the Senate should have any significant question about whether or not once we have ratified the treaty and you did, I thought, enormous service in the review that you did of the record in helping us to understand that, I do not think there is a lot of question as to whether or not once we have acted, that is the interpretation.

All I am suggesting is that it would be good in order to depart from this new adversarial relationship that has been created in the treaty process, to have the President and the Secretary of State submit it. I do not personally believe it is essential on a legal basis, on international law or on a political basis for us to do that in order to understand what we have heard, what is authoritative and what is not.

So, I agree, we could do it as committees, but it would certainly be helpful in terms of getting rid of the Senator from Washington's and other people's characterizations of potential splits and so forth. It would immediately evaporate if the President joined us in expressing that, and I think it should be very simple for him to be able to do it.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Kerry.

Senator EVANS. Mr. Chairman, I wonder if I could have just one comment based on what the Senator from Massachusetts said. Are we not ultimately at the point where we are going to have to

depend at least to some degree on the good faith and the abilities of each of us? This Senate, no matter what we do, cannot really bind future Senates. They will operate in their own way and can undo or change virtually anything we do, and the same thing may be true of future administrations. We have got to operate in our own constitutional capacities on the basis of some faith in each other's understanding and shared understandings and recognize that there will be new circumstances out there that people are going to have to struggle with, and there may be struggles out in the future that we cannot anticipate.

I am not sure that we are going to help things very much, in fact, we may hinder what we are trying to do by formalizing something that it is going to be difficult to bind others to in any event.

Senator NUNN. Senator Evans, if I could briefly respond, I do not think we can bind a future Senate. I know Senator Byrd makes the point over and over again, the Senate is a continuous body, though, but I do not think this administration can absolutely bind future administrations.

Senator EVANS. Right.

Senator NUNN. But that is why we have laws. Laws are binding. Laws, when they are on the books, have to be repealed. We bind every day, every time we pass a law and the President signs it, we are binding our future in terms of the next Senate and next House, unless they repeal it.

Senator EVANS. That is right.

Senator NUNN. The same thing with treaties. Treaties become the supreme law of the land according to the U.S. Constitution. When we pass a treaty, it is binding. It is binding on the Senate, it is binding on the House, it is binding on this Nation, binding on the President, binding on the next President. So, I would say that we do bind every day. That is what the legal process is all about, and that is what the rule of law is all about.

The CHAIRMAN. Thank you. Thank you very much indeed.

I think the hour of 20 to 5 having arrived, we hoped to start at 4, the committee would excuse the Senators.

Senator HELMS. Before you do that——

The CHAIRMAN. Senator Helms.—

Senator HELMS. I want to thank both of you.

The CHAIRMAN. I join in that.

Senator HELMS. And also Dave Boren and Bill Cohen and Bill Bradley this morning. This has been a very interesting day.

A lot of things have been said here today that have not been said at any time previously during the hearings on the INF before the Foreign Relations Committee, and I know both of you have so much to do, and I am reluctant to even suggest this, and I have not even asked the chairman about it, but it would certainly be a comfort to me if the two of you could sit in at least part of the time on the markup of the INF so that we can bounce some of these questions and some of these issues off you and get your response, because what you have said today and what Senator Boren said this morning, and Senator Cohen and Senator Bradley. For example, say, on page 13 of your excellent statement, Senator Nunn, you point out something that everybody who has appeared before this committee just about, certainly from the administration, has just

sort of waved aside and said, "Oh, it does not matter, that is no problem."

Well, there is at least one or two of us who think it is a problem when we lay aside, as you put it, Sam, on page 13, alternately the Soviets could develop and deploy a new type ground-launched ballistic missile replacement for the SS-20, provided that missile were tested one time at a range in excess of 5,500 kilometers, even if it were tested on every subsequent occasion at INF ranges.

Now, this goes into the mix, and I dare say that the people out across the country are hearing this for the first time. Then you say, and I compliment you, you say the treaty's verification regime cannot provide guarantees that no banned missiles are covertly maintained. This thing has been obfuscated and just kicked around and said, "Well, nothing to that. It is important to get this treaty ratified."

Well, I want to get a treaty ratified, too, but I want it to protect the American people. And I do not think we ought to rush into this thing.

Then you say the treaty depends on a Soviet calculation, not our calculation, a Soviet calculation that either, one, such systems would not be militarily viable due to the ban on flight testing, training, infrastructure, et cetera; or two, that the political risks of cheating outweigh the military gain. And then you say, very wisely, whether these assumptions are valid is the central issue before the Senate with regard to the verifiability of the treaty.

Now, we have heard all sorts of declarations that, "Oh, it is verifiable." And I do not think it is. And I have tried to raise questions, and I have been scoffed at and said, "Oh, do not pay any attention to that," but I am totally impressed with both you and Senator Warner and Dave Boren and Bill Cohen and Bill Bradley who testified earlier this morning.

One concluding note. Unfortunately, the reporters and television cameramen were not able to go in and should not have been able to go in to the code level session that we had. There is a lot of information and the implications in that information that I wish the American could hear and ponder and discuss and even debate. But what we have had is a steady stream of pabulum rolling forth saying, "Oh, well, you know, it would be a disaster if we did not ratify this treaty. And it must have no amendments." And you yourself, thank you, Sam, said something about that thing.

Now, if it needs amending, amend it. If it needs fixing, fix it. But do not accept the administration's view or anybody else's view that everything is hunky dory, we took care of it.

Now, let me suggest that your committee request certain cables from about December 3 or 4. I am not sure about the date. I am continually told as late as this morning that an assertion in the Evans and Novak column of December 21 is accurate, that statement being that the Soviets warned that if the INF Treaty could not be signed on December 8, 1987, when Mikhail Gorbachev joined Ronald Reagan in the White House, there will be no treaty.

Now, I would like to know whether the pressure was on because this obviously brings into question what issues were resolved in the final days with such an ultimatum hanging over the negotiators.

Now, Max Kampelman was in my office shortly before the hearings began, and he acknowledged that right up until the bottom half of the ninth inning with two outs, they were still, for example, struggling to get a photograph of the missile, SS-25, SS-20, and what they got was something that looked like a cigar tube hidden in some dark recess behind a bunch of trees. They could not tell one thing in the world about it.

And the pressure was on, it was last minute.

So, I would like to know exactly what kind of pressure there was to make sure that this was signed on December 8. These are the questions.

And I say, Mr. Chairman, it would be most helpful, and I think it would be good for the country if these two fine Senators would agree, to the extent they can fit it in their schedule, to sort of sit in and let us ask them some questions about the military end of it.

The CHAIRMAN. Well, they are delighted as guests to be here. I think the responsibility for markup rests with us. I would love to pass it along.

Senator HELMS. Well, of course, it does.

The CHAIRMAN. But if they choose to come, they have a warm welcome, and we will have more ice water for them than we had available today.

Senator NUNN. I have been through a pitcher or two today, Mr. Chairman, and I appreciate your all having us and your patience.

Senator HELMS. I thank you so much for your invitation. Let us go back, do our work in our committee tomorrow afternoon, plow through all of these deliberations, and get back to you with a written report as soon as we can, and then we will be responsive to whatever questions you all may have.

Senator HELMS. Well, in that case, I would hope that we could sort of delay until we at least get that. We are not going to get the written report anytime soon, is that correct, Senator?

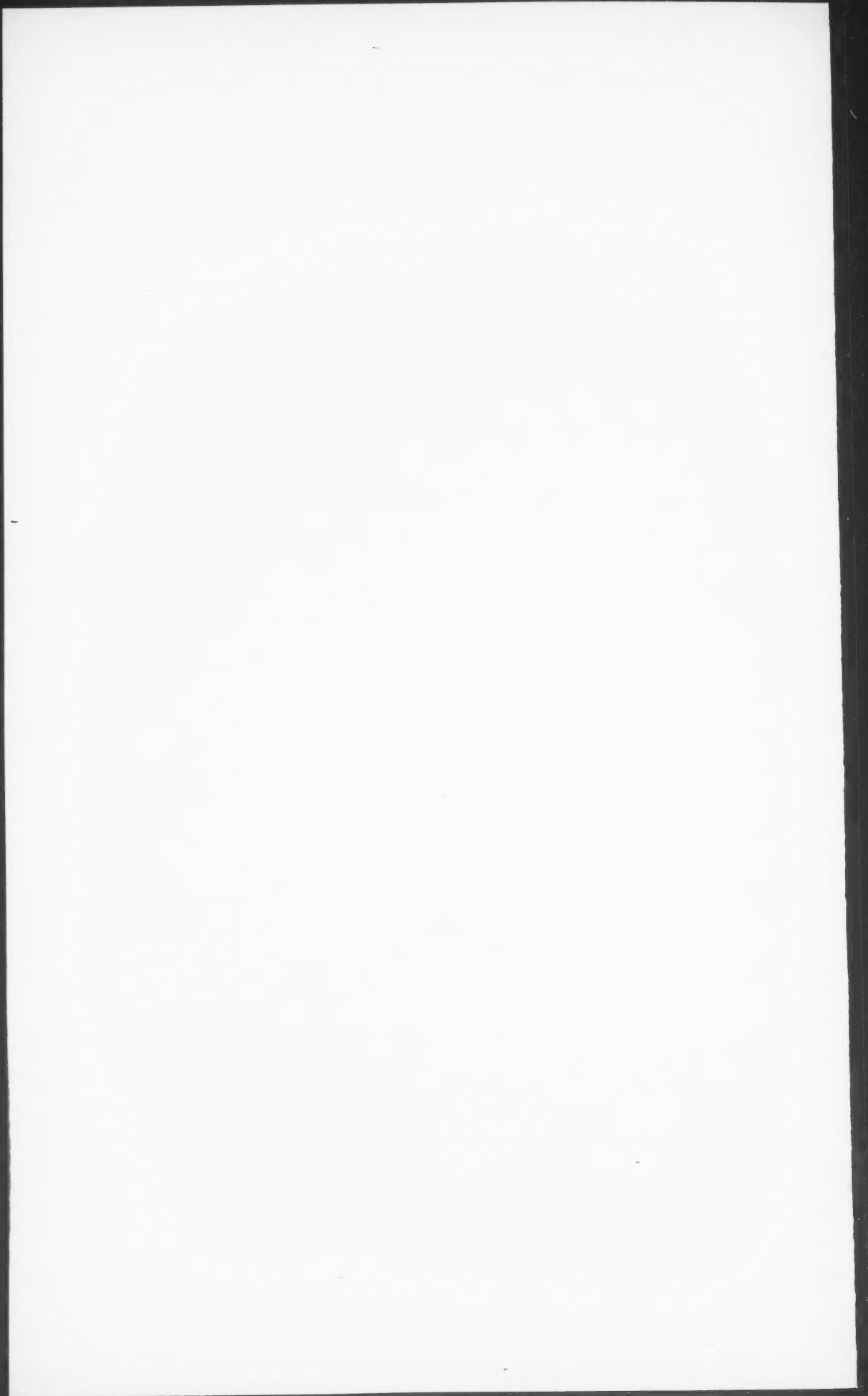
Senator NUNN. Well, we hope to have it next week, sometime next week.

Senator HELMS. Well, you know, that is doing well under the circumstances under which your committee has been operating, and I just do not think that haste serves any purpose. It may serve a Soviet purpose, but it sure does not serve the purpose of the United States.

The CHAIRMAN. Thank you, gentlemen, very, very much for being with us.

Senator HELMS. And I do, too.

[Whereupon, at 4:45 p.m., the committee proceeded to markup session.]



APPENDIX
PREPARED STATEMENT OF SENATOR JESSE HELMS

MR. HELMS. Mr. Chairman, and Mr. Secretary. For seven weeks the Committee has been examining the INF treaty. These seven weeks have not been encouraging. What has been made obvious--to those who are willing to examine the treaty--is that there is a wide gap between the Administration's public representations about the treaty, and the information which we have received in closed session. Indeed, after many hours of listening to testimony both public and private, the Administration's public presentation of the treaty has been a tissue of confusion, misstatements and even misrepresentations.

A few examples--and there are many others:

The Administration claims that this treaty reduces nuclear weapons. In fact, the Secretary said here on January 25, that the treaty, and I quote, "reduces nuclear weapons rather than setting guidelines for their future growth." But we have learned in the hearings that nuclear weapons are not reduced at all; only the delivery vehicles are to be eliminated. The nuclear warheads, that is the most expensive and the most technologically difficult part of the device, can and will be transferred by the Soviets to upgraded delivery vehicles. This should really be called the Soviet Nuclear Force Modernization Treaty.

The Secretary told us on January 25 that the treaty "requires the U.S. and the Soviet Union to eliminate their intermediate range missiles within three years. But we found out that the definition of "intermediate range missile" is so narrowly drawn that the treaty does not include all missiles with an intermediate-range capability. In fact, the term "intermediate range missile" is almost meaningless, since any intermediate range missile that also has a capacity in excess of 5500 kilometers is permitted to remain.

The Secretary told us in his first appearance that "NATO would retain a variety of systems that could perform the critical deterrence missions." But expert after expert testified that the so-called nuclear weapons that remained were, by and large, battlefield weapons that would explode on allied territory instead of in Soviet territory, as the Pershing II would do.

The Secretary told us then that the Pershing IIs and the SS-20s "were not considered strategic." It may be true that the Administration does not consider them strategic. But there is no evidence that the Soviet Union does not consider them strategic. In fact, the Soviet strategy is tri-partite, consisting not only of offensive and defensive systems, but also ground and air operations in Europe. The subjection of Europe, either by threat or by conventional forces, is now and always has been a prime goal of Soviet strategy. The removal of the SS-20s, if they really are to be removed, does not remove the Soviet capability to threaten Europe either through political pressure or nuclear intimidation. Our removal of the Pershing IIs removes the only credible deterrent against this third arm of Soviet strategy.

The Secretary told us that the obligation to remove the intermediate missiles was global, and that we would have on-site inspection of declared sites. But the United States knows full well that missiles prohibited in this treaty were in fact deployed in Cuba. This treaty fails to provide the on-site inspection that the Soviets promised in 1962. While the White House says that it has no evidence that missiles are in Cuba, it is also true, as Admiral Crowe testified, that we have no capability to detect missiles unloaded at night and hidden in Cuban caves.

The Secretary also told us on January 25 that "this agreement has the most stringent and comprehensive scheme of verification in the history of arms control." But we can have on-site inspection only at

those sites where the Soviets permit us to look--which of course is exactly the places where the Soviets would not keep a covert force. The scheme of verification may be more stringent when it is compared to nothing, which is what we had before, but it as full of holes as Swiss cheese.

Finally, the close design relationship between the SS-20, prohibited by the treaty, and the SS-25, which is not covered by the treaty, makes it perfectly feasible to keep SS-20s in SS-25 containers, test them on SS-25 launchers, and train their troops on SS-25 sites, which we can't inspect, and which our national technical means can't detect.

So it is very clear, Mr. Chairman, that the Soviets can actually dismantle 650 SS-20 delivery vehicles, and we will be able to verify that 650 SS-20 delivery vehicles have been actually destroyed--not the warheads, but only the delivery vehicles. Even so, this treaty denies us the ability to detect whether a covert force of SS-20s remains outside the treaty structure of verification.

That is what makes the range of estimates of SS-20s produced so crucial to our understanding of the treaty. The Administration has attempted to maintain that the Soviet declared number of 650 SS-20s is "within the range of estimates." And, based on press reports, it may be within that so-called range.

The key question, however, is whether the rock bottom estimates provided by the State Department and the CIA, both notorious for underestimating Soviet military capabilities, should be given any credence whatsoever. The fact is that the majority of our intelligence agencies, excluding the CIA and State's INR, are confident that the number of SS-20s is much higher--950, or even 1250, as Admiral Crowe testified before

the Armed Services Committee. The view that there are probably 300 to 600 more SS-20s than have been declared is too wide a range of difference to be dismissed as "within the range of estimates." The catastrophe of being wrong is too great a consequence to face.

Of course, the exact details on these matters can be discussed only in closed session, and I know that we will do that. Nevertheless, the public must be alerted to the wide divergence between the public face which the Administration has put on a bad treaty, and the truth which can be examined only in secret.

PREPARED STATEMENT OF DANIEL YANKELOVICH

My name is Daniel Yankelovich. I am president of the Public Agenda Foundation, a nonprofit, nonpartisan research and education organization founded by Cyrus Vance and myself, and of the Daniel Yankelovich Group, Inc., an opinion research firm. Both organizations are based in New York.

As my associates have explained, Public Agenda and the Brown Center for Foreign Policy Development have completed an indepth study of Americans views on the future of U.S.-Soviet relations. I am here today to share the highlights of that study with you. My remarks will also draw on, in addition to the findings of the Public Agenda/Brown study, current opinion data from another research project with which I am involved. The Americans Talk Security project, or ATS is conducting a series of studies of public opinion on U.S.-Soviet relations and national security issues throughout the 1988 primary season and the general election. The project was conceived and funded by Alan Kay, a Boston-based businessman and philanthropist. Its purpose is to provide objective and nonpartisan opinion information for candidates from both parties. The ATS research is being conducted through a collaboration of three organizations, Marttila and Kiley, Inc., headed by John Marttila

and Tom Kiley; Market Opinion Research headed by Robert Teeter, and my own firm, the Daniel Yankelovich Group, with supplementary qualitative research from the Public Agenda.

Before going into the details of the research, I want to tell you something about the background of the project -- why we decided to focus on Americans' views about the future and why we chose to conduct a particular kind of research. The focus on the future grows out of an earlier study conducted by Public Agenda and the Brown Center in 1984. Two factors brought to light by that study suggested to us that a deeper understanding of how Americans see the future of U.S.-Soviet relations was needed.

First, this 1984 study revealed a sharp distinction between the way that experts and the public looked at the issue of U.S.-Soviet relations and national security, and especially the policy of deterrence. Experts interviewed for the study voiced a solid commitment to the policy of deterrence, crediting deterrence with keeping the peace between the two superpowers for over forty years. In contrast, many average Americans expressed considerable anxiety about the wisdom of relying on nuclear weapons -- and the policy of deterrence -- over the long term. Basically, most Americans were convinced that if nations stockpiled large numbers of nuclear weapons, sometime, somewhere, someone would use them.

Second, this 1984 study indicated that coinciding with the public's concern about the future were conflicts between what people said they wanted in the future and what kinds of policies they supported in the short term. To oversimplify, people tended to be long term "doves," but short term "hawks."

Given the combination of widespread public anxiety and concern and considerable confusion about what courses of actions people would really support, we believed that it was essential to learn more about what Americans really wanted for the future of U.S.-Soviet relations, and, equally important, what policies they would be willing to support over time.

But understanding what Americans want for the future and predicting what policies they will support in the long term required a special research methodology, one that would allow us to probe behind people's wishful thinking, to expose them to a range of realistic alternatives and to insure that people confronted the risks and trade-offs and costs associated with each. Dr. Swearer has outlined for you the careful work that went into the development of the four futures.

Now, I would like to tell you a little about the research methodology we used. We conducted a panel study with cross sections of Americans using quotas reflecting the age, race, education, and income of the population as a whole. The 963 respondents were brought together for three-hour sessions in five cities. At the beginning of the session, each participant completed a pretest questionnaire. They were then shown an educational videotape prepared specifically for this project that described the four futures, and the risks, costs, and trade-offs associated with each. Divided into smaller discussion groups with professional moderators on hand to insure that people understood the material, respondents reviewed handouts that reiterated the points raised in the video. Perhaps most important, respondents talked with each other about the futures, and the pros and cons of each. At the close of the session, each participant completed an extensive questionnaire about the material covered during the evening.

Thus the views captured in that final questionnaire represent something considerably more than top-of-the-head reactions or wishful thinking on the part of respondents. People confronted alternative visions of the future juxtaposed with the short term policies the country would need to pursue to get there. People had the advantage, albeit in a compressed fashion, of hearing the kind of back and forth debate on national policy that normally extends over the course of months or years. Consequently, findings from these panels provide a more reliable forecast of where the country will go and what Americans will support with some consistency over time.

In sharing the research with you, I will cover the following areas. I believe you have been given a series of charts to accompany my remarks, and you may want to follow along as I talk with you. I will:

1. Recap how people came out on the futures presented in the research, and how their views changed after these intensive discussions.
2. Review, for each future, what people liked about it and what they didn't like.
3. Lay out for you the public's preferred solution, a future containing elements from each of the four presented.
4. Describe, based on our research, where there is consensus in the country, and where public opinion is unresolved and highly changeable.

The Public Agenda/Brown study gave people four futures as food for thought. For each future, respondents were exposed to pro and con arguments and informed about the kind of short term policies that would be needed for the country to reach such a future.

First let's take a look at how all four futures fared. Looking at CHART IV, you will see that all of the futures were considerably more popular at the beginning of the sessions than at the close. There are dramatic drops in the number of people favoring each of the futures which suggests to me a considerable "wringing out" of wishful thinking. Second, you can see that when people were asked whether they favored a particular future, they were fully capable of favoring more than one. In fact, what we found, as I will discuss later, is that people liked some element of each of the four futures and have their own composite preferred future.

At the close of the evening people were asked to rank the four futures in order of preference. Two of the futures were far more popular than the others. A future of cooperation in which the two countries would jointly tackle problems such as terrorism, nuclear proliferation, pollution, and medical crises like AIDS was the first or second choice future of 76% of the respondents. A future of competition, but without

nuclear weapons was almost as popular the first or second choice of 74% of the respondents.

A future in which the U.S. would try to gain the upper hand over the Soviets both militarily and politically -- a future I have labeled for convenience as the "Cold War" future -- found less support. It was the first or second choice of 39% of the respondents. A future of isolationism was overwhelmingly rejected, being the first or second choice of only 12% of the respondents.

Now, at least as interesting as how people ranked the four futures is what people liked and disliked about each of the futures. Let me walk you through these one-by-one, starting with the most popular future, cooperation:

Supported by liberals and conservatives, Republicans and Democrats, pragmatism, not idealism, was the appeal of this future. People found two arguments in its favor especially compelling: 1) the argument that issues like nuclear proliferation, terrorism, and pollution are the real problems facing the two countries (83%), and 2) that, unless the basic relationship changes, even the most comprehensive arms agreements won't make the country safe (73%). Despite its widespread popularity, however, people did have reservations, most related to the caution the country should exercise in moving toward such a future. 58% indicated a concern about Soviet intentions in the Third World. 46% admitted that they are "not sure" that the Soviets want to do business with us. 42% feared that the Soviets would pretend to cooperate and then turn on us.

A future of competition, but without nuclear arms was virtually as popular. Here the main appeal was the possibility of doing something serious about the arms race. Among the persuasive arguments for people: that the Soviets, too, are interested in reducing the danger of nuclear war (82%), and the need to reduce nuclear arsenals to the point where, if the weapons are used, "at least the world won't be destroyed" (75%). 70% also said the U.S. and the Soviet Union should negotiate to resolve Third World "hot spots" because that is where a nuclear war is most likely to

start. Significantly, people believed the U.S. should pursue this kind of policy on hot spots "even if it means doing some things that our allies such as Israel oppose".

Along with these strong points in its favor, this future did have several serious risks for many respondents. People were concerned about the possibility of Soviet cheating on arms agreements (47%) and of leaving the Soviets with larger conventional forces (53%). But perhaps most important to people was the conviction that unless the relationship between the two countries changes, arms agreements, even the best ones, will not make us truly safe (73%).

The future that I have labelled the "Cold War" future was markedly less popular, although it has a strong following among a significant segment of the American public. People had concerns about the danger, cost, and ultimate futility of trying to win over the Soviets militarily. 75% saw it as a formula for an endless arms race. 70% feared it would mean enormous defense spending year after year. But it would be a mistake to dismiss this approach out of hand. The rationale behind it -- the need for strength and caution in dealing with the Soviets struck a responsive chord. Fully 71% of the respondents said the Soviets will test, probe for, and take advantage of any weakness on the part of the U.S.

Clearly, people do not want the country to return to isolationism. They fear such a course would lead other nations to build their own nuclear weapons (66%), and believe that it is U.S. strength that keeps the peace around the world (61%). But one theme in this future found very high levels of supports. 79% said a convincing argument for this future is the billions we spend to defend Japan and Europe, while they are taking away American jobs. 78% said the Allies should pay more of the cost of their own defense.

So what kind of future do Americans really want? They want a future of cooperation, but they want to be careful about getting there. They want the U.S. to be on its guard in its dealings with the Soviets,

especially concerning moves in the Third World. They want to reduce the number of nuclear arms -- and by large numbers. But again, they want the country to go about this carefully. They want to be wary about Soviet cheating, and they don't want to leave the Soviets with the largest army in the world. And, Americans do not believe this is some impossible dream. 65% said they thought it unlikely that the U.S. would sign an arms agreement leaving this country in a weak or inferior position. Americans want to be strong militarily, but they want to avoid an arms race. They see a continuing role for the United States as a global superpower, but they want the allies to take on some of the economic burden. A not impractical vision for the next two decades.

I would like to close my remarks by spending a few minutes on the present. I am struck by the clarity with which Americans have come to share certain premises at a consensus level. At the same time, there are several areas where Americans views seem to be unresolved and in flux. First, let's look at the areas of consensus:

There is a solid consensus on the need to reduce the number of nuclear weapons. We've seen some of these numbers before, but I would like you to take a look at these findings together, attitudes held by such large numbers of Americans:

82%: Soviets want to reduce risk of nuclear war as much as we do

75%: Seeking military superiority is formula for endless arms race

75%: Should drastically reduce nuclear arms to cut risk world might be destroyed

67%: Soviets may be ruthless, but not reckless fanatics

Added to these consensus views is a striking reassessment among Americans of what does pose the greatest danger of starting nuclear war.

85% say Soviet first strike or invasion is not the most likely way a nuclear war might start.

73% say a Third World conflict or a terrorist is the most likely to cause a nuclear war

70% say we should negotiate on Third World "hot spots" because this is the way a nuclear war might start.

Other areas of solid consensus: the desire for a less hostile, more cooperative relationship (83% saying that problem such as proliferation and terrorism are the real ones; 73% saying that the relationship must change for us to be safe; arms agreements alone won't do it.), and the need to spread the burden for the defense of the West (79% saying the allies are beating us economically while we defend them; 78% saying the allies should pay more).

Alongside these areas of consensus are several areas -- areas of much concern to this Senate at this very moment in time -- where public attitudes are unresolved: S.D.I., the U.S. role in countering Third World communism, and the wisdom of sharing of high technology with the Soviets. Let me just comment briefly on how I define unresolved or volatile areas of public opinion. Basically, public opinion is unresolved when people hold contradictory views at the same time, when the country seems divided and there is no clear majority to be had, or when the public's views "flip" when risks or trade-offs are introduced.

Let's look at some of the figures on S.D.I. First, the country seems to be in favor of building S.D.I. by a margin of 55% to 33%. But look at the next two findings, a slight majority would give up S.D.I. to work on common problems with the Soviets; a slight majority would not give up S.D.I. to negotiate deep arms cuts. The signals from the public are confused. Moreover, qualitative research conducted for this project suggests that people envision and are primarily supportive of S.D.I. in its ideal form, a shield which would protect the country and its population from any nuclear attack. Support dropped substantially when the intermediate form of S.D.I. -- which would protect only American defence systems, not American cities -- was presented. Whatever the reasons, the public has not yet fully resolved its feelings about S.D.I.

Another area where public attitudes are fluid and unresolved concerns this country's role in countering communism in the Third World.

Here the source of fluidity stems not from the goal, but rather from the risks and costs. People want to aid anticommunist governments and groups, but only when those being aided are themselves democratic. People are split on providing military aid to counter communism, and opposition increases with the chance that American troops might become involved. Similarly, the country is split on recognizing Cuba, and opposition increases when people confront the possibility that this action might strengthen and legitimize a communist government in this hemisphere. As we noted earlier, Americans recognize a moral obligation to oppose communism, but they have been chastened by the experience of Vietnam. They themselves are unresolved about the best course of action (or inaction).

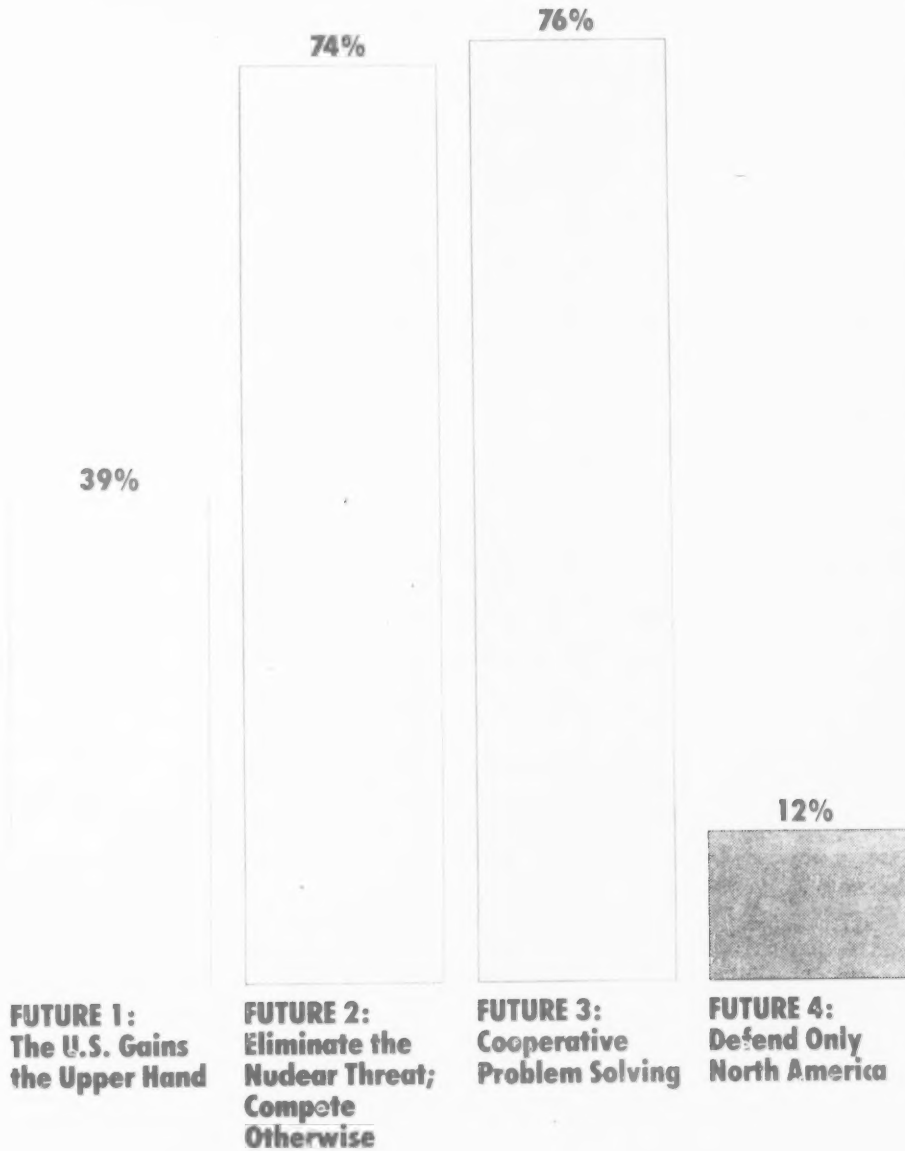
The public may also be split about the wisdom of sharing technology with the Soviets. The numbers indicate division and irresolution, and I believe that Americans need substantially more discussion and deliberation of this matter before any firm direction can be indicated.

I have concluded with this overview on areas of consensus and unresolved public attitudes because it is here that public opinion studies can be helpful or harmful in making policy. Some things we can say with confidence -- what Americans want for the future and the premises -- based on consensus views -- that are guiding them. But there are also areas where, frankly, it is too early to tell where Americans will come out or what kinds of policies they are willing to support over the long term. I believe these areas call for frank and open public discussion of the country's choices and possibly new thinking by leaders of how the country might resolve these difficult dilemmas.

I would be pleased to hear your comments and to answer any questions you may have.

PUBLIC SUMMIT '88

RESEARCH RESULTS



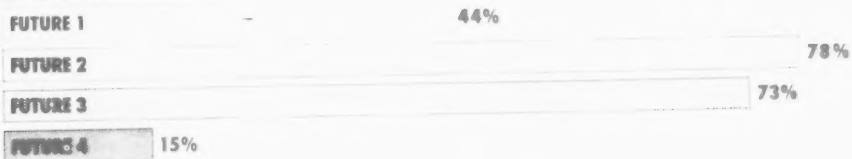
Percent ranking future as first or second choice

PUBLIC SUMMIT '88

BALLOT RESULTS

FUTURE 1: The U.S. Gains the Upper Hand
FUTURE 2: Eliminate the Nuclear Threat; Compete Otherwise
FUTURE 3: Cooperative Problem Solving
FUTURE 4: Defend Only North America

BALTIMORE



NASHVILLE



SAN ANTONIO



SEATTLE



Percent ranking future as first or second choice

I

THE FUTURE OF U.S.-SOVIET RELATIONS

1. A Joint Project Of Public Agenda And The Brown Center For Foreign Policy Development
2. A Three-Year Project:
 - . First 18 Months: Evolving Four Futures
 - . Second 18 months: Testing Four Futures
3. Reasons For Focusing On The Future:
 - . Deterrence Policy Divides Public From Experts
 - . Public Holds Different Attitudes About Present And Future

IA

EVOLVING THE FOUR FUTURES

- . Numerous Working Papers And Concept Papers
- . Multiple Workshops And Conferences With Experts And Policy Makers
- . Focus Groups To Determine Public Starting Point
- . Integrating Of Expert And Public Perspectives
- . Review With Experts For Balance And Realism
- . Review With Public For Balance And Comprehensibility

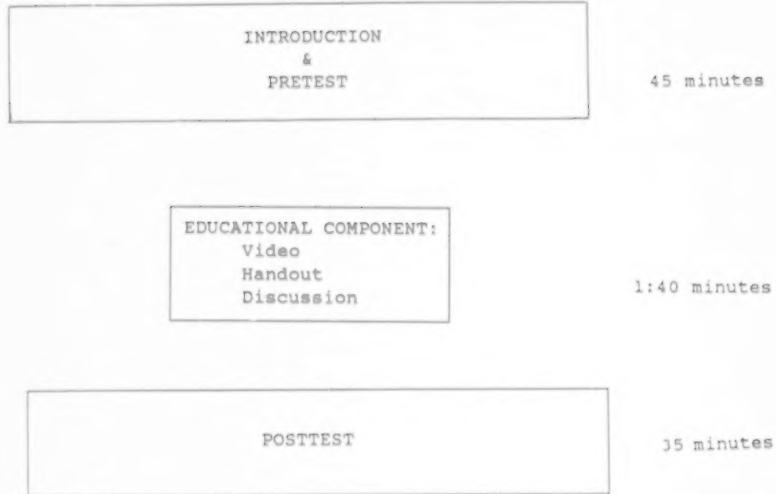
II

WHY PANELS, NOT POLLS

1. Need To Give People Food for Thought
 - . The Four Futures
 - . Risks, Costs, and Tradeoffs
2. Need To Use Standardized Presentations
 - . Video Presentations
 - . Print Materials
3. Need To Provide Opportunity for Discussion and Interaction
4. Need To Be Predictive of Future
 - . Pre and Post Testing

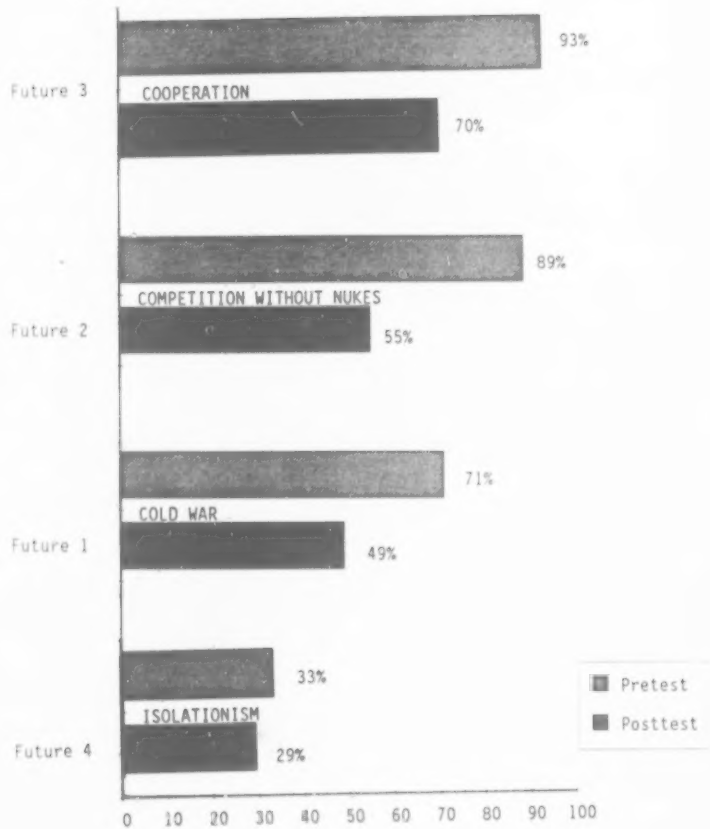
III

PANEL FORMAT



IV

THE FOUR FUTURES : MOVING AWAY WISHFUL THINKING



A FUTURE OF COOPERATION

OVERALL SUPPORT: Ranked as First or Second Choice 76%

A Pragmatic Option Supported by Liberals and Conservatives,
Republicans and Democrats

MOST PERSUASIVE ARGUMENTS:

Issues Like Nuclear Proliferation, Terrorism,
AIDS, etc., Are the Real Problems Facing Both Countries 81%

Unless We Change the Basic Relationship, Even the
Most Comprehensive Arms Agreements Won't Make Us Safe 73%

BUT

RESERVATIONS:

About Soviets in the Third World 58%

About Soviet Willingness to Work with Us:
 . "Not Sure" Soviets Want To Do Business 46%
 . Soviets Will Pretend To Cooperate 42%

About Sharing High Technology 43%

A FUTURE OF COMPETITION WITHOUT NUCLEAR ARMS

OVERALL SUPPORT: Ranked First or Second Choice 74%

MOST PERSUASIVE ARGUMENTS:

Soviets Truly Interested in Reducing the Danger
of Nuclear War 82%

Superpowers Should Slash Arsenals So That, If
Nuclear Weapons Are Ever Used, At Least the World
Won't Be Destroyed 75%

Superpowers Should Negotiate About "Hot Spots"
Because Third World Conflict Is How Nuclear War
Is Likely To Start 70%

BUT

RESERVATIONS:

Unless We Change Our Relationship, Even the Most
Comprehensive Arms Agreements Won't Make Us Safe 73%

Concern About Conventional Imbalance 53%

Concern That Soviets Might Cheat 47%

VII

A COLD WAR FUTURE

OVERALL SUPPORT: Ranked As First or Second Choice 39%

MOST PERSUASIVE ARGUMENTS:

Soviets Will Take Advantage If We Are Weak	71%
U.S. Should Assist Third World Anti-Communists	64%
U.S. Has Obligation To Oppose Soviet Expansion and Defend Freedom	55%

BUT

RESERVATIONS:

A Formula For An Endless Arms Race	75%
Would Mean Enormous Defense Spending, Year After Year	70%

VIII

AN ISOLATIONIST FUTURE

OVERALL SUPPORT: Ranked First or Second Choice 12%

MOST PERSUASIVE ARGUMENTS:

Our Billions Spent To Defend Japan and Europe Helps Them Win Economic Competition	79%
The Allies Should Pay More of the Cost of Their Own Defense	78%
Being "World's Policeman" May Drag Us Into Nuclear War	58%

BUT

RESERVATIONS:

Nations Would Feel Insecure, Build Their Own Nuclear Weapons	66%
U.S. Strength Keeps the Peace	61%

IX

THE PUBLIC'S COMPOSITE FUTURE

1. CHANGE THE RELATIONSHIP, WORK WITH THE SOVIETS ON COMMON PROBLEMS
 - . Proceed With Caution
2. SLASH NUCLEAR ARSENALS, NEGOTIATE ABOUT "HOT SPOTS"
 - . Keep an Eye Out For Soviet Cheating
 - . Don't Leave Them with World's Largest Army
3. U.S. SHOULD BE STRONG MILITARILY
 - . Avoid an Arms Race
4. U.S. SHOULD BE A WORLD POWER
 - . Allies Should Share the Burden
5. PROCEED GRADUALLY, STEP-BY-STEP; SEE HOW THE SOVIETS RESPOND
 - . No Instant Detente

X

AREAS OF CONSENSUS1. THE SOVIETS AND THE NUCLEAR THREAT

Soviets Want To Reduce Risk of Nuclear War	82%
Seeking Military Superiority Is Formula For Endless Arms Race	75%
We Should Drastically Reduce Nuclear Weapons To Cut Risk Of World Destruction	75%
Soviet Leaders May Not Be Reckless or Irrational Fanatics (Though They May Be Ruthless)	67%

2. HOW NUCLEAR WAR MIGHT START

Soviet First Strike/Invasion Is Not Most Likely Way Nuclear War Might Start	85%
Third World Conflict Or Terrorist Likely To Start Nuclear War	71%
Negotiate On "Hot Spots" Because Nuclear War Might Start There	70%

XI

3. DESIRE FOR A LESS HOSTILE RELATIONSHIP

Real Problems Facing U.S. and Soviets Are Proliferation, AIDS, Etc.	83%
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Unless Relationship Changes, Most Comprehensive Arms Agreements Won't Make Us Safe	73%
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4. SOVIET TRUSTWORTHINESS

Soviets Probe, Look For Weakness, Take Advantage When They Find Any	71%
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5. ECONOMIC BURDEN

Allies Are Winning Economic Competition While We Spend Billions To Defend Them	79%
--	-----

Allies Should Pay More Of Own Defense	78%
---------------------------------------	-----

XII

UNRESOLVED ISSUES:

SDI

	Agree	Disagree
	%	%
We Should Build SDI	55	33
. Would Give Up SDI To Work With Soviets On Common Problems	59	36
. Would <u>Not</u> Give Up SDI To Negotiate Deep Nuclear Arms Cuts	56	39

XIII

UNRESOLVED ISSUE:COMMUNISM IN THE THIRD WORLD

	Agree	Disagree
	%	%
We Should Aid Anticommunist Groups/Governments In The Third World	64	31
. We Should Aid Anticommunist Groups/Governments In The Third World <u>Even If That Means</u> Sometimes Supporting Dictators	39	53
We Should Increase Military Aid To Third World Countries To Help Them Fight Communism	47	45
. We Should Increase Military Aid To Third World Countries To Help Them Fight Communism <u>Even If That Means</u> Increasing The Chance That U.S. Troops Will Get Involved In Local Fighting	44	51
We Should Recognize And Establish Trade Relations With Cuba	41	40
. We Should Recognize And Establish Trade Relations With Cuba <u>Even If That Means</u> Strengthening And Legitimizing A Communist Government In This Hemisphere	36	54

XIV

UNRESOLVED ISSUES:

SHARING HIGH TECHNOLOGY

	<u>Agree</u> ‡	<u>Disagree</u> ‡
We And The Soviets Should Work On Manned Mission To Mars, Even If That Means Sharing High Technology	50	43
Having To Share Our High Technology And Giving Up Our Main Edge Is A Convincing Argument Against Developing Cooperative Relationship	43	48

PREPARED STATEMENT OF MAJ. GEN. WILLIAM F. BURNS

I am pleased to appear before this Committee today to testify on the U.S.-Soviet Treaty on the Elimination of their Intermediate-range and Shorter-range Missiles (INF Treaty), which was signed by President Reagan and Soviet General Secretary Gorbachev on December 8, 1987. As many of you know, I have been associated with the INF negotiations since their inception, initially as the Joint Chiefs of Staff Representative on the U.S. Delegation and more recently as the Deputy Assistant Secretary in the Bureau of Politico-Military Affairs in the Department of State. Now as the designated director of the Arms Control and Disarmament Agency, I want to state my support for the Treaty, and indicate that, if the Senate gives its advice and consent to ratification, I look forward to working on its implementation as well as the other arms control objectives of the Administration.

The signing of the INF Treaty represents a milestone in the history of arms control. We were able to achieve a militarily significant arms control agreement by holding steadfastly to our policies with strong and cohesive Allied support. That itself is one of this Treaty's most signal accomplishments and has I think major implications for the future. The provisions of the Treaty itself contain significant breakthroughs in such areas as asymmetric reductions which will also be an important factor in future arms control discussions. Finally, we have been able to get Soviet agreement on verification measures, including on-site inspections which are important precedents, and which together with our national monitoring capabilities will enhance our ability to protect U.S. and Allied security interests.

Obviously any agreement represents compromises. In many areas we faced tough choices between other strong security considerations of the United States and its Allies and even more intrusive verification. I believe that we have struck the right balance in getting Soviet agreement on the details of these measures.

Implementing the 1979 Decision

It has been the firm policy of this Administration, and one with which I strongly agree, that arms reductions agreements such as the INF Treaty are not ends in themselves. Rather they are part of our broader strategy to ensure the security of the United States and its Allies. The INF Treaty has fulfilled the goal which the NATO Alliance set out for itself in 1979 -- to respond to and if possible remove the serious threat posed by the unrestrained buildup of SS-20s targeted on Europe. It was our NATO Allies who initially expressed their deep concern with the SS-20 buildup, in the context of a relative balance in U.S. and Soviet strategic offensive weapons. They were worried about the intentions of the Soviets in carrying out these deployments and the risk of de-coupling of Europe from the U.S. strategic deterrent.

The response on which NATO agreed was to carry out a measured level of deployments of U.S. systems in Europe which would counter this new Soviet threat and prevent the Soviets from using the SS-20 force to put political pressure on Allied Europe. At the same time, we and our Allies indicated our readiness to negotiate an arms control outcome which would reduce this Soviet threat to zero or any level above zero equal

to U.S. deployments. The Soviets used every weapon in their arsenal of political, propaganda and disinformation tricks to try to halt the deployments which were scheduled to begin in December 1983. Deployments went ahead as scheduled on the basis of Alliance unity and the strong record of NATO consultations. The ability of NATO to carry out the deployment side of the 1979 decision was the essential factor in getting the arms control agreement that the President signed on December 8, 1987 and which marked the success of the 1979 decision as a whole.

That success should demonstrate to all who might question it that firmness in our resolve to take the necessary but difficult decisions which our security and that of our Allies requires is a prerequisite for arms control agreements which really contribute to peace and stability. NATO showed in implementing the 1979 decision that it had the determination and unity which will also be required as the Alliance faces future decisions on the quality of defense it needs to maintain. The consensus in the Alliance in the face of a massive Soviet effort to use the INF issue to drive permanent wedges in Allied political unity is due in large measure to deeply shared convictions about our common principles and interests. Europeans and Americans are united in the conviction that the INF Treaty advances those interests. This INF success cannot be seen as an isolated event but just a sample of the importance and effectiveness of commitment and unity within the Alliance.

Achievement of Negotiating Objectives

In 1981, the President enunciated our objectives for the INF negotiations, objectives which were echoed by NATO as a

whole many times throughout the six years of often arduous negotiations in Geneva. U.S. INF negotiators were able to achieve all of these objectives.

First, we insisted on equality of rights and limits in the INF Treaty. Despite heavy Soviet pressure throughout the negotiations to protect their massive advantages in longer and shorter range INF systems, the INF Treaty is based on strict U.S.-Soviet equality.

Second, as a corollary to equality, we insisted there be neither negotiations on, nor compensation for, any third country nuclear systems. The INF Treaty contains exclusively bilateral provisions -- no limits on the nuclear forces of third parties. This is a considerable achievement recalling that the Soviets fought long and strenuously throughout much of the negotiations for what they called "compensation" for British and French nuclear systems as an integral part of an INF agreement.

Third, we insisted that the INF Treaty must contain global limits, so that the security threat in Europe could not simply be exported to other regions, especially against our friends and allies in the Far East. The Soviets initially refused to discuss let alone limit any INF missile systems except those in Europe. They then tried a variety of unsuccessful ploys to retain systems in Asia before finally agreeing to the U.S. proposal for the global elimination of all U.S. and Soviet INF systems.

Fourth, we insisted that the INF agreement contain no

provisions which would adversely affect NATO conventional forces in Europe. The Soviet negotiators made a major effort to include U.S. forward-based, dual-capable aircraft -- and even U.S. carrier based aircraft -- in the INF Treaty, through provisions which would have severely reduced our ability to support conventional forces in Europe. But the U.S. negotiators held firm and the Treaty contains no limits on the tactical forward-based aircraft that are so vital to NATO's defenses.

Finally, any agreement had to be verifiable and I will come back to the effectiveness of the verification measures on which we and the Soviets have agreed.

The INF Treaty and Alliance Security

Legitimately, many ask how the INF Treaty affects NATO security and the agreed Alliance strategy to maintain that security. The INF Treaty eliminates the substantial Soviet ground-launched INF missile threat and the modest INF missile force deployed by the Alliance to counter that threat. It does not affect the other nuclear and conventional forces which have long assured that the security of the United States and Western Europe remains fully linked. The majority of the U.S. nuclear systems committed to NATO, as well as the nuclear forces of Britain and France, will remain unaffected by the INF Treaty.

As I have indicated, the Treaty contains no arms control constraints on our dual-capable aircraft armed with nuclear and non-nuclear bombs and air-to-surface missiles. Neither sea-launched cruise missiles (SLCMs), nor short-range missiles

with ranges below 500 kilometers (300 miles), nor nuclear artillery is limited in any way by the INF Treaty. Indeed, about 4,000 nuclear weapons will remain after U.S. INF missiles have been withdrawn. In addition, the United States will continue to maintain over 300,000 troops stationed in Europe. And the powerful U.S. strategic arsenal including SLBMs earmarked for use by SACEUR will continue to stand behind these forces as the ultimate deterrent for the peace and the security of the Alliance. These were the basic military components which linked U.S. and European security before U.S. INF missile deployments began in late 1983. They will all remain after 1988 to ensure that we can implement our strategy of flexible response to any Soviet aggression against Europe if, as I hope, the Senate gives its advice and consent to ratification of the INF Treaty.

Therefore, I see no reason to fear that the INF Treaty will lessen our ability or resolve to respond to Soviet aggression. On the contrary, the INF Treaty has enhanced Allied political cohesion through the long and close process of consultation and will strengthen NATO defense by eliminating a significant nuclear threat along with the nuclear, chemical and conventional threat of the SS-12 and SS-23.

I am also aware of the legitimate concerns of those who feel that the INF Treaty could set us on a path toward the complete denuclearization of Western Europe. Nuclear weapons remain an essential element of the agreed strategy of flexible response as a deterrent to Soviet aggression. The Alliance is fully united behind these concepts. As I have noted, the Alliance will still have a substantial force of about 4000 nuclear weapons remaining in Western Europe after an INF

agreement is concluded. And the nuclear modernization programs outlined in the 1983 Montebello decision and supported by the Nuclear Planning Group will contribute to keeping those nuclear forces viable and up to date. We thus are a long, long way from a denuclearized Europe.

At the same time, I recognize that we must guard against misguided disarmament euphoria which could lead to further calls for nuclear reductions in Europe. In this regard, NATO concluded at the Reykjavik Ministerial in Spring 1987 that the priorities in arms control are START, chemical weapons and conventional stability. Reduction to equal, non-zero levels of U.S. and Soviet shorter-range missiles -- those under 500 kilometers -- could enhance NATO's security only in conjunction with the establishment of a conventional balance and the verifiable global elimination of chemical weapons. Short range systems are dual-capable -- nuclear and conventional. A third zero for SNF would open the way to the elimination of all U.S. nuclear weapons from Europe - a longstanding Soviet goal. Even negotiations to significantly reduce them would not only greatly complicate verification, but would dramatically offset NATO's capability to implement its strategy of flexible response and thus compound the dangers inherent in the conventional imbalance between NATO and the Warsaw Pact and the defense of Western Europe.

That is not to say that ratification of the INF Treaty should somehow be linked to redressing this conventional imbalance. The INF Treaty does not -- and cannot -- resolve the long-standing problem of the Warsaw Pact's conventional superiority and the geographical asymmetries which favor the

Soviet Union and which have plagued the Alliance virtually since its inception. The INF Treaty can only resolve the problem it set out to solve: eliminating the destabilizing disparity in U.S. and Soviet INF missiles. In so doing, it also makes a valuable contribution to improving the survivability of NATO's conventional forces and the Alliance's ability to reinforce them.

The continuing conventional imbalance remains a serious security issue which must be addressed in separate actions which will enhance stability and security in Europe. NATO has agreed on the Alliance's most serious conventional deficiencies and is pursuing with renewed determination its Conventional Defense Improvement Program more vigorously. We and our NATO Allies are also looking at additional ways to improve our conventional forces.

In the arms control area, we are pressing ahead with East-West talks on the mandate for new conventional stability negotiations which will cover Europe from the Atlantic to the Urals and involve all NATO and Warsaw Pact countries. Finally, we are engaged in bilateral discussions and multilateral negotiations with the objective of achieving an effective, verifiable and global ban on chemical weapons. Until such a ban is achieved, the U.S. must continue to maintain and modernize its CW deterrent.

Lessons for Arms Control

As the incoming Director of the Arms Control and Disarmament Agency, I am also aware of the implications of INF

for other arms control agreements. We succeeded in INF in achieving what no past U.S.-Soviet arms control agreement -- or indeed any agreement -- has succeeded in accomplishing -- a real reduction in nuclear weapons. For example, ten years ago, U.S. SALT proposals for deep reductions in nuclear arms were dismissed out-of-hand by the Soviet Union. Despite these proposals and high Western hopes and expectations for the SALT process, the SALT II agreement that finally emerged would have led only to cosmetic decreases in Soviet strategic delivery vehicles and real increases in the number of Soviet nuclear warheads.

The INF Treaty not only will eliminate all intermediate- and shorter-range INF missiles, but also key facilities, structures and support equipment associated with these missiles. Moreover, it will ban all production and flight testing of these missiles as soon as the Treaty enters into force. The Treaty also establishes a relatively short time-frame within which these missiles must be eliminated. It stipulates that Soviet GLCMs tested but not deployed must be eliminated within six months, all shorter-range INF missile systems within 18 months and all the remaining intermediate range systems within three years.

But probably more importantly, the INF agreement provides for asymmetrical Soviet reductions to reach equal levels. The Soviet Union will have to eliminate a total of 1752 deployed and non-deployed intermediate-range missiles compared to 859 missiles for the United States -- a two-to-one ratio and a four-to-one ratio in terms of the warheads these missiles are capable of carrying. They will also eliminate 84 GLCM's which have not yet been deployed.

Soviet acceptance in the INF Treaty of the principal of asymmetrical reductions to equal levels will be a valuable precedent for pressing for such reductions in future arms control agreements.

Unprecedented Verification Regime

Mr. Chairman, the Arms Control and Disarmament Agency has a special responsibility to ensure that effective verification provisions are an indispensable part of international arms control agreements. In this connection, I am pleased to affirm that the INF Treaty contains a verification regime of unprecedented scope and stringency. These verification provisions reflect both President Reagan's insistence on tough, effective verification and our troublesome and unresolved questions and concerns over Soviet non-compliance with earlier obligations they have freely assumed.

The Overall INF Verification Concept

Verification is an essential part of the INF Treaty and is written into virtually every Treaty article. The bulk of the INF verification regime focuses on the declared overt INF inventories. It seeks to control these by specific constraints on the location and movement of missiles and launchers confirmed by on-site inspection. These geographic restraints are based on designated limited areas of the Soviet Union where INF missile systems are allowed during the reductions period, and a larger residual area where they are prohibited unless in announced transit. This will assist our national technical means, the principal function of which under this Treaty will

be to detect any illegal systems and not to "count" the number of systems.

The INF verification regime also is designed to make as complicated and costly as possible the acquisition of any covert illegal inventory by the Soviets. The discovery of even a single Soviet INF land-based missile after the three year period for elimination would represent a Treaty violation to which the U.S. would appropriately respond. Moreover, maintenance of a militarily useful covert force is rendered difficult by the production ban, the verifiable elimination of launch critical support equipment and structures, and the flight test ban on all INF missiles. The ban on flight tests from entry into force, in particular, will render any flight testing extremely vulnerable to detection, and without flight testing it is difficult to establish the reliability of systems produced even from existing designs. With this framework, our initial verification confidence will increase over time since any possible covert Soviet missiles systems would eventually lose significant military value due to aging, "enforced" inactivity and the complexities of maintaining a covert infrastructure and training program.

Detering Soviet Non-Compliance

The INF Treaty verification regime also lays out other requirements and procedures with which we can deter Soviet non-compliance. These include a comprehensive exchange of data by both sides on all Treaty-specified items. The initial data exchanged by both sides is in the Memorandum of Understanding (MOU) on Data which is an integral part of the Treaty. This

data must be updated within thirty days after the Treaty enters into force, and at six month intervals thereafter.

The INF Treaty's verification provisions also provide us for the first time with on-site access by United States inspectors to Soviet INF missile sites and facilities in the Soviet Union, Czechoslovakia and the German Democratic Republic.

These inspections include:

o. Initial baseline on-site inspections of declared facilities starting thirty days after the Treaty enters into force to confirm the numbers of Treaty limited items declared by each side in the exchange of data;

o. Close-out inspections to confirm that Treaty-limited items have been removed from declared facilities and that all INF-related activities have ceased;

o. Obligatory on-site inspections to verify the elimination of Treaty-limited systems;

o. Short-notice inspections of declared and formerly declared INF facilities during the three year reduction period and for ten years thereafter. Each side is permitted twenty such inspections per year during the first three years, fifteen per year during the next five years, and ten per year in the final five years of Treaty inspections;

As a further unprecedented element, for up to 13 years the United States will have the right to continuously monitor, with

permanent on-site personnel and sensors and measuring equipment, the final assembly facility at Votkinsk where Soviet SS-20 missiles have been assembled and where the Soviet Union continues to assemble SS-25 road-mobile ICBMs which have a first stage outwardly similar to the first stage of the SS-20. As a reciprocal measure, the Soviet Union will have the right to establish a continuous portal monitoring system at the Hercules plant at Magna Utah, where Pershing II stages were produced.

In addition to these on-site inspections, the INF verification regime prohibits interference with verification by national technical means. To enhance the effectiveness of our NTM, we also obtained Soviet agreement, for a period of no more than three years or until a START agreement is achieved, to open for a period of time the roofs on missile garages at SS-25 bases other than those that may in the future be converted from SS-20 bases, remove the missiles on launchers from these garages and display them in the open without any concealment measures in order to confirm that these garages contain SS-25 missiles, not prohibited SS-20s. At all SS-20 bases listed in the MOU which are subsequently converted to SS-25 bases, we will have the right to conduct short notice on-site inspections for 13 years after the Treaty enters into force.

We are convinced that these comprehensive verification provisions will allow us to assess compliance with the INF Treaty in a timely and effective manner. At the same time, these verification provisions provide a valuable starting point for the even more complicated verification regime which will be required for a START Agreement. The START verification

provisions, of course, will have to be different in important respects, indeed even more far reaching, since a greater variety of weapons systems is involved and these systems will be reduced and constrained in number and capability, as opposed to being completely eliminated.

Conclusion

Mr. Chairman, the INF Treaty should be assessed on its merits. It can not resolve -- and should not be expected to resolve -- other aspects of the Soviet threat.

The Treaty does extremely well what it set out to do. It removes the imbalance in U.S. and Soviet land-based INF missiles which pose a serious and growing threat to NATO security without sacrificing the Alliance's ability to respond effectively to Soviet aggression.

It is a singular arms control accomplishment, which will set important precedents for the future. It begins the long process of stabilizing reductions of nuclear weapons systems, which up to now have been subject only to ever greater increases. It contains unprecedented provisions for effective verification which few would have thought achievable when the negotiations began -- including on-site inspections on Soviet and Warsaw Pact soil and even the permanent basing for up to thirteen years of U.S. inspectors in the Soviet Union.

The INF Treaty is therefore in the U.S. national interest and that of our Allies.

PREPARED STATEMENT OF SENATOR DAVID L. BOREN

THE KEY UNCLASSIFIED FINDINGS AND CONCLUSIONS OF THE COMMITTEE ARE AS FOLLOWS:

o THE COMMITTEE BELIEVES THAT BY A COMBINATION OF NATIONAL TECHNICAL MEANS AND ON-SITE INSPECTION, THE INTELLIGENCE COMMUNITY WILL BE ABLE TO MONITOR THE DRAWDOWN AND ELIMINATION OF DECLARED SOVIET MISSILES LAUNCHERS AND ASSOCIATED EQUIPMENT WITH GREAT CERTAINTY.

o THE COMMITTEE NOTES THAT THE ON-SITE INSPECTIONS ESTABLISHED BY THE TREATY ARE APPLICABLE ONLY TO FACILITIES DECLARED BY THE SOVIETS IN THE MEMORANDUM OF UNDERSTANDING. THEREFORE, THE BURDEN OF DETECTING BANNED ACTIVITIES AT UNDECLARED SITES, WHERE THEY ARE MOST LIKELY TO OCCUR, WILL FALL ON NATIONAL TECHNICAL MEANS OF VERIFICATION.

o THE SPECIFIC REQUIREMENTS IMPOSED BY THE TREATY, INCLUDING THE BANS ON PRODUCTION, FLIGHT TESTING AND STORAGE, WILL LIMIT THE ABILITY OF THE SOVIETS TO MAINTAIN NON-DEPLOYED MISSILES IN A HIGH STATE OF READINESS. THESE PROVISIONS INCREASE BOTH THE PROBABILITY OF DETECTING CHEATING AND THE COST OF CHEATING FOR THE SOVIETS. AT THE SAME TIME, HOWEVER, SOVIET COMPLIANCE WITH SOME OF THE TREATY'S PROVISIONS WILL BE DIFFICULT TO MONITOR.

o THIS PROBLEM IS EXEMPLIFIED BY THE UNRESOLVED CONTROVERSY BETWEEN DIA AND OTHER INTELLIGENCE AGENCIES OVER THE NUMBER OF SS-20S IN THE SOVIET INVENTORY. IN ANY EVENT, THE TREATY'S BAN ON FLIGHT TESTING, WILL OVER TIME LIMIT THE MILITARY UTILITY OF ANY SS-20S THAT THE SOVIET UNION MIGHT COVERTLY MAINTAIN.

o AT THE SAME TIME, THE COMMITTEE NOTES THAT THE FLIGHT TEST BAN IS UNEVEN IN ITS APPLICATION AGAINST WEAPONS SYSTEMS ELIMINATED BY THE TREATY. IT IS EFFECTIVE IN LIMITING THE MILITARY RELIABILITY OF A COVERT SS-20 FORCE, BUT FAR LESS RELEVANT TO GROUND-LAUNCHED CRUISE MISSILES AND SHORTER-RANGE BALLISTIC MISSILES.

o GROUND-LAUNCHED CRUISE MISSILES POSE A PARTICULARLY DIFFICULT MONITORING PROBLEM AS THEY ARE INTERCHANGEABLE WITH LONG-RANGE SOVIET SEA LAUNCHED CRUISE MISSILES (SLCMS). SO LONG AS SLCMS ARE NOT BANNED, THEIR TESTING WILL ALLOW A SOVIET MILITARY PLANNER TO FULFILL ALL OF THE TECHNICAL REQUIREMENTS FOR TESTING A COVERT GLCM. THE LACK OF A GROUND FORCES INFRASTRUCTURE FOR SUCH WEAPONS, HOWEVER, WOULD BE EXTREMELY DIFFICULT FOR THE SOVIETS TO OVERCOME COVERTLY, AND THIS GREATLY LESSENS THE VALUE AND PROBABILITY OF SUCH A CHEATING EFFORT.

o WE ARE CONCERNED THAT THE SOVIETS COULD COVERTLY EXTEND THE RANGE CAPABILITY OF A CRUISE MISSILE, OR OVERTLY DEVELOP A NEW GROUND-LAUNCHED CRUISE MISSILE WITH A PROHIBITED LONG-RANGE CAPABILITY, IF THE CRUISE MISSILE WERE TESTED ONLY TO SHORTER RANGES.

o YET THE COMMITTEE BELIEVES THAT THE RISK OF A SOVIET ATTEMPT TO CHEAT WITH SUCH AN EXTENDED RANGE CAPABILITY IS OFFSET BY SOVIET OPERATIONAL REQUIREMENTS. SOVIET MILITARY PLANNERS WOULD HAVE SERIOUS PROBLEMS WITH THE RELIABILITY OF SYSTEMS NOT TESTED TO THEIR MAXIMUM RANGE.

o IN THE CASE OF SHORT RANGE BALLISTIC MISSILES (SRBMS)

THE COMMITTEE DOES NOT FORESEE THE NEED FOR THE SOVIETS TO CHEAT SINCE THEY CAN EASILY AND LEGALLY DEVELOP A NEW OR MODERNIZED SRBM WITH A DEMONSTRATED RANGE LESS THAN 500 KILOMETERS.

o MOREOVER, THE SOVIETS COULD NOT TEST ANY SHORT-RANGE BALLISTIC MISSILE MUCH BEYOND THE 500 KILOMETER LIMIT WITHOUT THE UNITED STATES DETECTING THE VIOLATION.

o THE COMMITTEE BELIEVES THAT IN THE ABSENCE OF A START AGREEMENT, THE SOVIETS HAVE LITTLE OR NO INCENTIVE TO CHEAT. WITH 10,000 WARHEADS IN THEIR STRATEGIC ARSENAL TODAY, THE SOVIETS CAN COVER INF AND GLOBAL TARGETS AND STILL HAVE SEVERAL THOUSAND WARHEADS IN RESERVE.

o IN AN INF/START ENVIRONMENT, HOWEVER, THE MONITORING, CHEATING AND RISK CALCULUS CHANGES SUBSTANTIALLY. THE SOVIET INCENTIVE TO CHEAT COULD INCREASE BECAUSE OF A GREATER DIFFICULTY IN MEETING TARGETING REQUIREMENTS. THE MILITARY SIGNIFICANCE OF ANY CHEATING WILL INCREASE BECAUSE OF LOWER U.S. FORCE LEVELS.

o BUT THE SOVIETS WOULD HAVE GREATER DIFFICULTY MAINTAINING A COVERT FORCE OF INTERMEDIATE-RANGE BALLISTIC MISSILES IN A START REGIME WITH NEW LIMITS ON ROAD-MOBILE STRATEGIC BALLISTIC MISSILES AND NEW PROVISIONS FOR SHORT-NOTICE INSPECTIONS OF UNDECLARED FACILITIES.

o THE MONITORING OF NUMERICAL LIMITS, RATHER THAN A BAN, AND OF QUALITATIVE RESTRICTIONS WILL MAKE THE SATISFACTION OF COLLECTION REQUIREMENTS AND, THEREFORE, THE DETECTION OF CHEATING FAR MORE DIFFICULT.

o THE U.S. INTELLIGENCE COMMUNITY MUST BE PREPARED TO MEET TWO PRIORITIES UNDER A START ENVIRONMENT -- WHERE THE UNITED STATES AND THE SOVIET UNION HAVE AGREED TO REDUCE THEIR STRATEGIC OFFENSIVE FORCES WHILE ALSO COMPLYING WITH THE INF, ABM AND OTHER ARMS CONTROL TREATIES.

THE FIRST INVOLVES MONITORING THOSE WEAPONS SYSTEMS AND ACTIVITIES LIMITED OR BANNED BY ARMS CONTROL TREATIES. THE SECOND INVOLVES MILITARY ACTIVITIES WHICH ARE NOT LIMITED BY TREATIES, BUT WHICH TAKE ON AN ADDED IMPORTANCE AS A RESULT OF THEIR CONSTRAINTS.

o BY CUTTING STRATEGIC OFFENSIVE FORCES ON BOTH SIDES BY ROUGHLY 50 PERCENT, A START AGREEMENT WOULD RAISE THE IMPORTANCE OF INTELLIGENCE ON SOVIET DEVELOPMENTS IN OTHER AREAS THAT WOULD THREATEN THE SURVIVABILITY AND EFFECTIVENESS OF SCALED BACK US STRATEGIC FORCES.

o INDEED, IT IS POTENTIAL COMBINATIONS OF SIMULTANEOUS DEVELOPMENTS IN SOVIET STRATEGIC OFFENSIVE AND DEFENSIVE FORCES, PARTICULARLY ITS CAPABILITIES AGAINST U.S. SATELLITES, BALLISTIC MISSILE LAUNCHERS AND CRUISE MISSILES THAT RAISE THE MOST URGENT CONCERNS ABOUT THREATENING SHIFTS IN THE STRATEGIC BALANCE BETWEEN THE SOVIET UNION AND THE UNITED STATES. MOREOVER, IT IS IN AREAS NOT LIMITED BY A TREATY WHERE SUCH SOVIET EFFORTS ARE LIKELY TO BE MOST ACTIVE.

o THE COMMITTEE ACCORDINGLY RECOMMENDS THAT THE CONGRESS AUTHORIZE AND APPROPRIATE FUNDS REQUIRED TO INITIATE A LONG-TERM PROGRAM TO MODERNIZE AND IMPROVE UPON CURRENT PLANS FOR INTELLIGENCE COLLECTION. IT SPECIFICALLY

RECOMMENDS INVESTING MORE IN PROGRAMS THAT WOULD BE MOST HELPFUL IN VERIFYING A START TREATY, IN PREVENTING TECHNOLOGICAL SURPRISE AND IN SUPPORTING U.S. POLICY AND OPERATIONS IN CRISES.

o MANY OF THE DETAILS REGARDING THE PRECISE NATURE OF OUR INSPECTION RIGHTS ARE STILL BEING NEGOTIATED WITH THE SOVIETS. A CONSTRUCTIVE PROCESS HAS BEEN PUT IN MOTION TO SECURE U.S. OBJECTIVES IN THESE NEGOTIATIONS, ALTHOUGH THIS HAS NOT YET BEEN ACHIEVED.

o THE EXTENSIVE ON-SITE INSPECTION AND PORTAL MONITORING THAT MAY BE REQUIRED BY A START AGREEMENT, INCLUDING SUSPECT SITE INSPECTIONS, COULD HAVE A FAR MORE SIGNIFICANT IMPACT ON U.S. COUNTERINTELLIGENCE AND SECURITY INTERESTS THAN THOSE AGREED TO IN THE INF TREATY.

PREPARED STATEMENT OF SENATOR WILLIAM S. COHEN

MR. CHAIRMAN, I JOIN CHAIRMAN BOREN IN THANKING YOU FOR THIS OPPORTUNITY TO PRESENT THE INTELLIGENCE COMMITTEE'S REPORT ON THE INF TREATY TO THE COMMITTEE ON FOREIGN RELATIONS.

BEFORE I BEGIN MY COMMENTS, I WOULD ALSO LIKE TO EXTEND MY THANKS TO ALL THE OTHER MEMBERS OF THE INTELLIGENCE COMMITTEE, AND TO SENATOR BRADLEY IN PARTICULAR, FOR THEIR HARD WORK AND PARTICIPATION IN OUR PROCESS. I AM ESPECIALLY GRATEFUL FOR THE BIPARTISAN SUPPORT WE HAVE RECEIVED IN THIS UNDERTAKING.

ANY TOPIC OF MAJOR POLICY INTEREST IN WHICH IT IS NECESSARY TO MAKE INTERPRETATIONS BASED ON SENSITIVE INTELLIGENCE HAS THE POTENTIAL TO BE POLITICAL DYNAMITE. THE MEMBERS OF THE INTELLIGENCE COMMITTEE, WITHOUT EXCEPTION, HAVE HANDLED THE INFORMATION WHICH HAS BEEN ENTRUSTED TO US -- MUCH OF WHICH IS VERY SENSITIVE INDEED -- IN A RESPONSIBLE MANNER. THE OVERWHELMING SUPPORT OF THE COMMITTEE IN VOTING FOR THE CLASSIFIED AND UNCLASSIFIED VERSIONS OF OUR REPORT IS, I BELIEVE, A STRONG TESTAMENT TO THE INTEGRITY OF OUR PROCESS.

I HOPE THAT ALL THE MEMBERS OF THIS COMMITTEE -- AS WELL AS MEMBERS OF THE SENATE AS A WHOLE -- WILL BE ABLE TO TAKE THE TIME TO READ OUR CLASSIFIED REPORT. IT IS QUITE BALANCED AND THOROUGH AND HAS BEEN GIVEN HIGH MARKS BY THE INTELLIGENCE COMMUNITY FOR THE WAY IT LAYS OUT THE RANGE OF ISSUES AND CONSIDERATIONS RELATING TO THE INF TREATY AND ITS PROVISIONS.

AS THE CHAIRMAN INDICATED, THE REPORT CONCLUDES THAT THE UNITED STATES DOES HAVE THE ABILITY TO MONITOR AND VERIFY COMPLIANCE BY THE SOVIET UNION WITH THIS TREATY. WHILE I SUPPORT THIS CONCLUSION, AND INTEND TO SUPPORT THE TREATY ON THE FLOOR OF THE SENATE, THERE ARE A NUMBER OF CONCERNS WITH RESPECT TO BOTH ARMS CONTROL VERIFICATION REQUIREMENTS AND OVERALL STRATEGIC STABILITY WHICH I WOULD LIKE TO ADDRESS ON BEHALF OF THE COMMITTEE.

FIRST, THE COMMITTEE HAS FOUND THAT ANSWERS TO QUESTIONS OF VERIFICATION ARE NOT ALWAYS STRAIGHTFORWARD AND UNAMBIGUOUS. MOST INVOLVE MAKING JUDGMENTS OF DEGREE AND SUFFICIENCY.

SINCE NO VERIFICATION AND MONITORING REGIME CAN BE ABSOLUTELY PERFECT, A CENTRAL FOCUS FOR THE COMMITTEE HAS BEEN TO DETERMINE WHETHER ANY POSSIBLE VIOLATIONS WOULD BE OF SUFFICIENT MILITARY SIGNIFICANCE TO CONSTITUTE A THREAT TO OUR NATIONAL SECURITY INTERESTS. THIS CALCULUS IS ONE OF THE MOST IMPORTANT THE SENATE WILL CONSIDER IN ITS ANALYSIS OF THE TREATY.

SECOND, THE COMMITTEE NOTES IN THE REPORT THAT U.S. INTELLIGENCE REQUIREMENTS CANNOT BE DICTATED SOLELY BY ARMS CONTROL TREATY MONITORING NEEDS. THE COMMITTEE BELIEVES THAT MONITORING SOVIET ACTIVITIES IS NECESSARY NOT ONLY TO VERIFY ARMS CONTROL AGREEMENTS, BUT ALSO TO PROVIDE TIMELY WARNING OF POSSIBLE THREATS THAT ARE NOT PROHIBITED BY TREATY.

ACCORDINGLY, THE COMMITTEE PAID CLOSE ATTENTION TO WHETHER OUR CURRENT AND PROPOSED CAPABILITIES -- HUMAN, TECHNICAL, AND OTHERWISE -- ARE SUFFICIENT TO MEET CURRENT DEMANDS, AS WELL AS EMERGING FUTURE REQUIREMENTS. WHEN CERTAIN SYSTEMS ARE LIMITED OR ELIMINATED BY AGREEMENT, OTHER MILITARY DEVELOPMENTS WHICH ARE PERFECTLY LEGAL UNDER TREATIES TAKE ON A SIGNIFICANCE OF THEIR OWN -- A SIGNIFICANCE WHICH COULD AFFECT THE STRATEGIC BALANCE BETWEEN THE U.S. AND POTENTIAL ADVERSARIES. WE MUST HAVE THE

CAPABILITY OF MONITORING SUCH DEVELOPMENTS NOT COVERED UNDER THE TREATY.

ONE OF THE MOST CHALLENGING TASKS THE INTELLIGENCE COMMUNITY COULD FACE IN THE NEAR FUTURE IS THE MONITORING OF A PROSPECTIVE START AGREEMENT. UNDER PRESENT PROPOSALS TO CUT SOVIET AND U.S. STRATEGIC NUCLEAR FORCES, THE REQUIREMENTS FOR U.S. INTELLIGENCE WOULD CHANGE FOR SEVERAL REASONS:

- START NEGOTIATIONS ENVISION A SYSTEM OF LIMITS AND SUBLIMITS ON STRATEGIC ARMS, AS OPPOSED TO THE BANS EMPLOYED BY THE INF TREATY. UNDER THIS REGIME, SIGNIFICANT VIOLATIONS WOULD BE MORE DIFFICULT TO DETECT;
- SOVIET VIOLATIONS COULD HAVE A GREATER IMPACT ON U.S. NATIONAL SECURITY THAN ANY PLAUSIBLE VIOLATION OF THE INF TREATY;
- UNANTICIPATED IMPROVEMENTS IN SOVIET STRATEGIC OFFENSIVE AND DEFENSIVE CAPABILITIES COULD MAKE THE LOWER LEVELS OF U.S. STRATEGIC FORCES ENVISIONED IN START PROPOSALS MORE VULNERABLE;
- EVEN IN THE ABSENCE OF START, THE BALANCE OF STRATEGIC FORCES COULD BE UNDERMINED OR UPSET BY POSSIBLE SOVIET TECHNOLOGICAL

BREAKTHROUGHS, OFFENSIVE FORCES IMPROVEMENTS,
OR POSSIBLE BREAKOUTS FROM ABM TREATY LIMITS.

THE COMMITTEE BELIEVES THAT IF THE INTELLIGENCE COMMUNITY IS TASKED WITH REQUIREMENTS TO SUPPORT A START TREATY, WITHOUT CONTINUOUS ATTENTION TO IMPROVING OUR INTELLIGENCE CAPABILITIES, THE INTELLIGENCE COMMUNITY MAY NOT BE ABLE TO MONITOR THOSE REQUIREMENTS WELL ENOUGH TO STRENGTHEN U.S. SECURITY. INDEED, THE BURDENS OF MONITORING SOVIET MILITARY ACTIVITIES THAT ARE NOT CONTROLLED -- IN ADDITION TO THOSE CONTROLLED BY THE INF AND ANY START TREATY -- COULD SERIOUSLY STRAIN THE FUTURE CAPABILITIES OF THE INTELLIGENCE COMMUNITY, ESPECIALLY IN AN ENVIRONMENT OF LIMITED FUNDING FOR INTELLIGENCE ACTIVITIES.

COMMITTEE MEMBERS FEEL THAT THIS POTENTIAL GAP BETWEEN INTELLIGENCE CAPABILITIES AND INTELLIGENCE REQUIREMENTS MUST BE APPRECIATED BY THEIR COLLEAGUES IN THE SENATE. WE ARE THEREFORE BRINGING IT TO EACH MEMBER'S ATTENTION IN CONNECTION WITH THE CONSIDERATION OF THE INF TREATY.

THIRD, THE COMMITTEE NOTES THAT IN NEGOTIATING AN ARMS CONTROL AGREEMENT, VERIFICATION IS ONLY ONE OF THE MANY OBJECTIVES THAT MUST BE SERVED. THERE ARE INEVITABLE TENSIONS BETWEEN THE NEED FOR EFFECTIVE VERIFICATION AND THE DESIRE FOR STRATEGIC STABILITY. FOR EXAMPLE, THE CURRENT U.S. POSITION IN GENEVA IS TO SEEK A BAN ON MOBILE MISSILES, LARGELY BECAUSE OF THE VERIFICATION PROBLEMS THEY MAY POSE.

ON THE OTHER HAND, MOBILITY ENHANCES STRATEGIC STABILITY BY REDUCING THE OPPORTUNITY FOR PREEMPTIVE STRIKES.

ONE PROPOSAL THAT I ADVANCED IN A MEETING A LITTLE OVER A WEEK AGO WITH GENERAL SECRETARY GORBACHEV AND SENATORS SIMPSON, NUNN, LEVIN AND CRANSTON ADDRESSES THE NEED TO BALANCE OUR OWN MILITARY NEEDS AND VERIFICATION REQUIREMENTS BY BANNING LAND-BASED MOBILE MIRVED SYSTEMS. IN THE EVENT THAT OUR MONITORING CAPABILITIES DID NOT DETECT A VIOLATION UNDER SUCH A REGIME, THE DANGER WOULD BE MINIMIZED. A MOBILE LAND-BASED SYSTEM BEARING ONLY A SINGLE WARHEAD WHICH ESCAPED OUR MONITORS WOULD BE LESS OF A THREAT TO US THAN ONE CARRYING MULTIPLE WARHEADS.

WE MUST ALWAYS KEEP OPEN THE POSSIBILITY OF ALLOWING OURSELVES THE FLEXIBILITY TO ADOPT SYSTEMS NEEDED FOR OUR OWN NATIONAL SECURITY, EVEN IF THIS MAKES VERIFICATION LESS CERTAIN. VERIFICATION CANNOT BE VIEWED IN A VACUUM, BUT SHOULD RATHER BE BALANCED WITH OTHER COMPETING INTERESTS FOR OUR OWN SECURITY.

ANOTHER EXAMPLE OF THE TENSION BETWEEN MONITORING CONCERNS AND MILITARY REQUIREMENTS INVOLVES CRUISE MISSILES. IN THE INF AGREEMENT, THE UNITED STATES HAS SACRIFICED THE RIGHT TO DEPLOY A CONVENTIONAL LONG-RANGE GROUND-LAUNCHED CRUISE MISSILE (GLCM) AGAINST THE WARSAW PACT, PRINCIPALLY BECAUSE MONITORING THE DISTINCTION BETWEEN NUCLEAR AND CONVENTIONAL CRUISE MISSILES IS DIFFICULT. SOME OF MY COLLEAGUES ON THE COMMITTEE BELIEVE THAT OTHER SECURITY

INTERESTS MAY HAVE BEEN SUBORDINATED TO VERIFICATION CONSIDERATIONS ON THE QUESTIONS OF GROUND-LAUNCHED CRUISE MISSILES. THIS HAS RAISED SERIOUS CONCERNS AMONG MEMBERS OF THE COMMITTEE THAT SIMILAR CONSIDERATIONS RELATING TO VERIFICATION IN THE START NEGOTIATIONS COULD LEAD TO UNDULY RESTRICTIVE LIMITATIONS ON FUTURE U.S. OPTIONS FOR CONVENTIONALLY ARMED AIR-LAUNCHED AND SEA-LAUNCHED CRUISE MISSILES.

THE TENSION BETWEEN MONITORING REQUIREMENTS AND OVERALL STRATEGIC NEEDS IS ALSO REFLECTED IN THE FACT THAT THERE ARE NO ON-SITE INSPECTION RIGHTS PROVIDED FOR UNDECLARED OR SUSPECT SITES. THIS PROBLEM IS MOST PRONOUNCED WITH RESPECT TO THE POSSIBILITY OF COVERTLY STORED MISSILES AT UNDECLARED FACILITIES. IN THIS CASE, LEGITIMATE U.S. SECURITY INTERESTS ARGUED AGAINST ALLOWING THE SOVIETS GREATER PRESENCE AND ACCESS IN THE UNITED STATES THAN GRANTED BY THE TREATY. WHILE WE DO NOT YET KNOW HOW INTRUSIVE THE PROCEDURES BEING DISCUSSED IN START NEGOTIATIONS ARE, OUR OWN COUNTERINTELLIGENCE CONCERNS ABOUT POTENTIAL SOVIET EXPLOITATION OF ON-SITE INSPECTION RIGHTS MAY AGAIN PROVE A SERIOUS COUNTERBALANCE TO THE NEED FOR A MORE INTRUSIVE AND DIRECT VERIFICATION REGIME FOR STRATEGIC WEAPONS.

FINALLY, I WOULD LIKE TO EMPHASIZE ON BEHALF OF THE COMMITTEE THAT OUR CONCLUSIONS WITH RESPECT TO MONITORING AND VERIFICATION SHOULD NOT NECESSARILY CONTROL THE FINAL DECISION EACH SENATOR MUST MAKE WITH RESPECT TO WHETHER THE

INF TREATY SHOULD BE RATIFIED. RATHER, THE VERIFIABILITY OF THE TREATY IS ONLY A PART OF THE PICTURE. THE WEIGHT GIVEN TO THE CONCERNS I HAVE OUTLINED HERE TODAY IS A MATTER WHICH PROPERLY RESIDES WITH EACH INDIVIDUAL MEMBER AS HE OR SHE WEIGHS THIS TREATY'S RATIFICATION.

I LOOK FORWARD TO HEARING THE QUESTIONS AND CONCERNS OF THE MEMBERS OF THE FOREIGN RELATIONS COMMITTEE ON THESE ISSUES. I FEEL CERTAIN THAT, WITHIN THE SECURE INTELLIGENCE COMMITTEE HEARING ROOM, WE SHOULD BE ABLE TO ADDRESS WHATEVER MATTERS RELATING TO INTELLIGENCE INFORMATION AND OUR COMMITTEE'S DELIBERATIONS.

PREPARED STATEMENT OF SENATOR BILL BRADLEY

NATIONAL SECURITY AND NUCLEAR ARMS REDUCTION

The aim of arms control should be to maintain U.S. and allied security and reduce the risk of war. This goal can be achieved by arms reductions that stabilize military balances and strengthen deterrence. Agreements to cut Soviet and U.S. nuclear arms, such as the INF treaty, can also lower international tensions and raise public confidence that the destructive power of nuclear weapons will remain under responsible political control.

The INF treaty is a major milestone in the arms control process. It marks a great success for NATO's long-term strategy to eliminate Soviet SS-20s from Europe by simultaneously negotiating for their removal and countering them with deployments of American INF systems. Indeed, it achieves a broader ban on all Soviet intermediate-range missile systems, including shorter-range ballistic missiles and ground-launched cruise missiles, not only in Europe but globally. The INF treaty may also mark the beginning of a new era in which we actually gain security while reducing strategic nuclear arms, along the lines that U.S. negotiators at START are pursuing.

Yet, to achieve these benefits, arms reduction treaties must be verifiable. To demonstrate that the INF treaty actually constrains Soviet behavior, it must also be backed by American policies to deter the Soviets from violating it. This requires that the U.S. be able to detect any significant Soviet cheating, even small violations. While a few isolated missiles in some remote Russian cave would have little military

importance, knowing about them would tell us that the Soviets were blatantly ignoring their treaty obligations.

This becomes all the more important under a START treaty, where there are deep cuts in long range nuclear systems, because an agreement which produces larger and more comprehensive reductions might also create greater incentives to cheat: an illegal force of SS-20s with 500 nuclear warheads would amount to less than 5% of the current level of the Soviets' nuclear-armed missile force but would approximate 10% of the level permitted by a START treaty. What is most essential, though, is the assurance that we would detect Soviet cheating early enough to maintain the military balance in Europe, allied positions in Asia, and strategic balance between the U.S. and Soviet Union.

In addition, a new record of strict compliance by the Soviets will be needed to overcome widespread doubts, raised by past violations, that they will abide by their future treaty commitments. These doubts have been heightened by the large, phased-array radar at Krasnoyarsk, which was built in violation of the ABM treaty. Improving their record of compliance will require a better attitude toward treaty obligations on the part of Soviet authorities.

The U.S. should give Soviet leaders strong incentives to create a good, new record of complying with the INF treaty by making the costs and risks of cheating unacceptably high. This means not just being able to detect cheating but also being willing to challenge the Soviets to comply. Only then can we expect them to regard treaty limits as legitimate rules that they should obey rather than mere obstacles that they may evade if it is in their interest and they can do so with impunity.

VERIFICATION REQUIREMENTS AND MONITORING CAPABILITIES

Effective verification -- knowing whether or not the Soviets are cheating -- is essential to enforcing strict compliance. And good intelligence -- monitoring all aspects of Soviet strategic behavior -- is the key to effective verification. Between the extremes of blindly trusting the Soviets and trying to follow their every move, what level of monitoring is needed to verify and enforce the INF treaty? Are U.S. monitoring capabilities good enough to make the INF treaty effectively verifiable? To answer these questions, it is helpful to distinguish among the functions and officials involved in dealing with suspected violations.

Monitoring is the responsibility of the Intelligence Community, which reports to the National Security Council and the Congress on what the Soviets do, using all the information available from U.S. on-site inspectors, our national technical means, and our other sources of information on Soviet missiles and related activities.

Verification is the responsibility of the National Security Council, which decides whether the Soviet behavior monitored by the Intelligence Community is permitted by the treaty, based on the text of the treaty, relevant records, diplomatic exchanges, and applicable law.

Enforcement is the responsibility of the President, acting in concert with the Congress, in proposing and pursuing

a course of action if a violation is found. Options for enforcement include seeking Soviet compliance by diplomatic means, denouncing the violation publicly, withdrawing from the treaty, or finally, in response, starting a new military program of our own.

Each option depends on America having the will to act in the face of a confirmed violation. To be effective, monitors, verifiers, and enforcers will need good information on Soviet intentions as well as capabilities in order to make critical decisions. To do nothing is advisable only if confronting the Soviets with the violation would jeopardize the sensitive intelligence sources and methods on which we rely for detecting more serious threats.

Moreover, to deter Soviets from cheating in the first place, the U.S. must reinforce Soviet expectations that they would be discovered and countered if they did cheat.

In the case of the INF treaty, detecting any possible violations involves three sets of monitoring requirements:

- assessing the accuracy of the numbers and locations of INF systems declared by the Soviets in the Treaty's Memorandum of Understanding.
- observing the drawdown and elimination of INF systems in accordance with the procedures set forth in the Protocol on Elimination.
- detecting any production, testing, or deployment of INF systems.

ASSESSING SOVIET DECLARATIONS

With respect to assessing the accuracy of the numbers and locations of forces and systems declared by the Soviets in the Treaty's Memorandum of Understanding, the Intelligence Community has not resolved significant differences of view over the possibility that the Soviets may not have disclosed their entire inventory of non-deployed SS-20 missiles. These differences represent valid analytical judgments based on the limited and inconclusive information that has been available to the Intelligence Community.

Whether or not these differences can be resolved in the future, on the basis of new information or analysis, their potential military significance would be short-lived. This is because the operational reliability and military utility of any covertly maintained missiles would begin to deteriorate immediately; would seriously degrade during the first three years, when all declared missiles are being eliminated; and would vanish entirely within a decade, unless the Soviets can resume flight testing them. This would be illegal and readily detectable.

OBSERVING DRAWDOWN AND ELIMINATION

With respect to declared INF systems, we can expect Soviet cooperation in permitting U.S. inspectors to observe their elimination, because they will have a strong interest in showing us that they are fulfilling their treaty commitments. If they fail to cooperate, we will know it well before we have

eliminated our own INF systems and could retain them until they cooperated. So, by fully implementing the Inspection Protocols of the INF Treaty, the U.S. will not need to rely on national technical means to verify the complete elimination of the Soviets' declared INF systems.

DETECTING ILLEGAL SYSTEMS AND ACTIVITIES

At the same time, U.S. intelligence must also seek to ensure that there are no illegal INF systems that should have been declared or that have been covertly stored, diverted, tested, or produced in violation of the INF treaty. In contrast with Soviet interests in showing our inspectors their declared inventories of INF systems and their elimination, we must expect the Soviets to try to conceal any illegal systems or activities.

That is why the U.S. must be able to monitor Soviet missile-related activities, no matter how well concealed. In particular, verifying the INF treaty's ban on all Soviet ground-based missiles for weapons-delivery with ranges of 500-5,500 kilometers will require us to monitor Soviet missile testing, production, and deployments with the best national technical means available.

Yet, even with the best technical means in the world, the United States cannot expect to discover every prohibited activity that the Soviets have plausible incentives to conduct clandestinely. Concealing a few, small illegal activities or assets is just too easy in a closed society like the Soviet Union. However, there is little apparent advantage to Soviet military commanders, and certainly significant risks and costs, in developing any covert forces that cannot be exercised realistically or tested fully because they must remain strictly concealed all the time to minimize any chance of detection.

Moreover, the INF treaty's ban on the testing of any ballistic missiles for weapons-delivery with ranges between 500 and 5,500 kilometers can be monitored with high confidence. This makes it exceedingly difficult, costly, and risky for the Soviets to develop or maintain a militarily useful, covert force of ballistic missiles, especially longer-range missiles, which violates the INF treaty. At worst, a Soviet short-range ballistic missile might be tested to a range of slightly over 500 kilometers without being verified as a treaty violation, but the Soviets could have little to gain and much to lose from conducting such a test.

U.S. national technical means of verification are not as highly effective against ground-launched cruise missiles (GLCMs) within these ranges, which are likewise banned by the INF treaty. In particular, an illegal force of GLCMs could probably not be detected nearly as promptly nor with the same high degree of confidence. This is due to their much smaller size and to the fact that they are in almost all respects identical with and virtually indistinguishable from sea-launched versions of the same missile, which are not banned by the INF treaty.

Still, any militarily significant training or deployment of a covert force of ground-launched cruise missiles would be subject to detection by the U.S. This is because it would necessarily involve a sizable number of troops and

technicians, as well as special security arrangements associated with highly sensitive activities, especially the illegal training or deployment of a nuclear-capable missile force. Moreover, in contrast with the SS-20, the Soviets have never developed the infrastructure for such a force of GLCMs. So, the Soviets could not have much confidence that they could maintain or deploy a ready ground-launched cruise missile force banned by the INF treaty without being caught.

FUTURE ARMS REDUCTION MONITORING REQUIREMENTS

A central problem in verifying future arms reductions that may be agreed upon is the closed nature of the Soviet system. Soviet armed forces are not subject to the civilian oversight and legal discipline that our open, democratic system imposes on U.S. military services. Despite promising steps in this direction, the new openness of General Secretary Gorbachev's glasnost policy still only reflects greater permission to speak, not freedom of speech. Moreover, the Soviet leadership is not directly accountable to its citizens for abiding by treaty commitments. We can hope that these features of the Soviet system will change. But unless they do, we should not presume that the Soviets will necessarily fulfill their treaty obligations, much less that they would publicly debate a decision to violate the INF or any arms control treaty.

Until Soviet authorities trust their own people, real trust between our two nations will be impossible. The initial steps in recent years toward a more open system are promising, but they do not go nearly far enough. In the absence of much greater trust, we must accept the fact that arms control agreements cannot do much to dampen either side's reliance on their military strength for national security.

With effective U.S. verification of arms reduction treaties, it is in areas not limited by treaty where Soviet strategic competition is likely to be most active. That is why U.S. national security policy should be as concerned with the continuing dangers of legally permissible activities as it is with those newly prohibited by treaty. Whether or not the Soviets comply strictly with every provision of the INF treaty, Western security interests could still be threatened, for example, if the Soviets produce greater numbers of unbanned long or short-range missiles, test and develop new directed energy (i.e. beam-type) weapons, or deploy more modern and offensive conventional forces.

Even after a START agreement which cuts the number of ballistic missiles, U.S. security could be undermined by possible Soviet breakthroughs in areas that would be unconstrained by arms control. With fewer ballistic missiles, the U.S. should put a larger premium on timely, accurate intelligence on particular developments which threaten the survivability and performance of the United States' remaining strategic forces, e.g. new Soviet capabilities to detect U.S. missile-launching submarines on patrol, to intercept penetrating U.S. bombers or cruise missiles, or to incapacitate essential U.S. satellites.

Making our ability to verify and our willingness to enforce compliance with future arms reduction treaties into a reliable and effective deterrent to Soviet cheating will not be

easy. On-site inspection rights such as those embodied in the INF treaty, and broader ones being negotiated in START, can promote compliance by restricting the ways in which the Soviets could cheat without being detected. But inspectors would almost certainly never uncover a violation because Soviet consent will be required for every inspection.

Maintaining confidence in arms control treaties and deterring Soviet violations will also require more resources devoted to analyzing Soviet society and monitoring Soviet behavior. Their costs will detract from any savings due to arms reductions. But, the more our security depends on fewer arms the more important it is to reassure ourselves and persuade the Soviets that significant violations will be caught and effectively countered. I, for one, would pay a premium for greater security through mutual arms reductions.

CONCLUSION

The INF treaty is a major milestone on the road toward greater security with fewer nuclear arms. Moreover, it will be effectively verifiable, so long as improvements in U.S. national technical means keep pace with any new requirements raised by a START treaty or a future conventional arms reduction agreement. I intend to vote for ratification.

PREPARED STATEMENT OF DR. AMOS A. JORDAN

I am honored to be asked to provide testimony to this distinguished committee on the extraordinary non-partisan project undertaken by Brown University and the Public Agenda Foundation.

This project provides exceptionally useful insights into public attitudes towards U.S./Soviet relations, arms control, and America's broader role in the world. The results of this undertaking deserve close attention by the nation's policy makers, particularly in this election year.

I would like to comment on five areas which emerge from the project's findings, three of which I believe hold enormous hope for the long-term prospects of U.S. national security policy, and two of which I believe demonstrate the need for improvement in the public's understanding of the complex issues which shape this policy.

First, like General Meyer, I found it tremendously encouraging that the study revealed that the vast majority of Americans view this country's role in the world with clear-eyed

realism. The strong preference for the establishment of a more cooperative relationship with the Soviet Union, was coupled with an abiding mistrust of Soviet motivations, trustworthiness, and long-term goals. Although the majority of respondents believed that a new, more flexible leadership was emerging under General Secretary Gorbachev, they saw no change in the Soviet propensity to probe for weakness in U.S. policy and to take advantage of any such failings if and when they occur. While respondents indicated a belief that the Soviets also would like to improve relations with the United States, they stressed the need to judge Soviet motivations by actions, not words. In this context, it is significant that 66% of respondents believe we should delay agreement on reducing strategic nuclear missiles until the Soviets have demonstrated that they will adhere to the recently signed INF treaty.

Equally encouraging in my view is the strong commitment to maintaining an international role for the United States. Clearly, isolationism is not viewed as a viable option by the majority of the American people. There is recognition that the increasing economic and technological interdependence preclude any recourse to a fortress America policy; there is also the acknowledgement that U.S./Soviet competition will increasingly occur in the Third World, and that we have an obligation to foster democracies in these regions. Finally, there is continuing support for our Alliance commitments, coupled with the realization that the United States is assuming a greater share of the defense of Western interests than is justified by the strong, healthy economies enjoyed by our allies in Europe and Asia.

I believe that this study reveals that the vast majority of Americans have a clear, realistic vision of the future course of U.S./Soviet relations in particular, and American national security policy in general. The ideal world they see in the year 2010 is one in which U.S./Soviet tensions have eased, and in which there is greater U.S./Soviet cooperation based on U.S. military strength, on hard-nosed assessment of Soviet behavior

and on carefully crafted and monitored agreements which leave little room for Soviet cheating or evasion. It is also a world in which the United States is active internationally and assisting the progress of democracy.

The high degree of consensus which emerges from this study, brings me to my third source of hope for the future of U.S. national security policy. It is my view that this study reveals that Americans do care about foreign policy issues, that they are already somewhat informed about them, and, that when given the opportunity, will make the effort to enhance further this understanding. This fact, coupled with the high degree of agreement on the broad directions of the future course of U.S./Soviet relations discussed above, indicates to me that a well thought out foreign policy that addresses the concerns highlighted in the study will have the strong support of the vast majority of the American people. I see here a tremendous opportunity for the political leadership of the nation; this study suggests the foundation upon which bipartisan consensus on U.S. foreign policy can be rebuilt. I believe that the survey shows that the necessary ingredients are out there; it is my hope that, in this election year, policy makers will seize the opportunity that has been revealed in order to create a sound national security policy that will further America's vital interests and that will enjoy the full support of a strong majority of our citizens. If they can be successful, then perhaps some of the divisiveness of the last decade and a half can be laid to rest.

The project also revealed several challenges which must be addressed if our leaders are to successfully forge the type of policies I have outlined above; I will limit my remarks to the two areas which I feel need the greatest attention. First, is the public's attitude towards nuclear weapons. From the survey results, it is clear that most Americans view nuclear weapons with fear; they are seen only as being dangerously destabilizing, which at current levels they may well be. There is however,

little recognition by those sampled of the contribution nuclear weapons have made to international stability. There is no doubt in my mind that the nuclear deterrent is largely responsible for the historically unprecedented period of peace that has existed in Europe for over 40 years and that it has helped ensure that conflicts elsewhere have remained largely localized. This case needs to be made forcefully to the American people; we need to cut through much of the rhetoric of recent years, rhetoric which has been spouted across the political spectrum, that nuclear weapons are entirely immoral and make no contribution to peace. They do play a constructive role and are vital to our national security. This point must be made because nuclear weapons will have to continue to be part of America's overall deterrent for the indefinite future; even if agreement is reached with the Soviet Union to dramatically reduce their numbers, nuclear weapons will not, cannot, disappear; they cannot be uninvented. Were the United States to renounce its nuclear deterrent completely, it would likely be profoundly destabilizing. Reductions, even deep ones, through careful, verifiable arms control agreements is the course most consistent with the survey's findings that it wants a militarily strong United States capable of playing a major role in the world.

The second challenge to U.S. policy makers revealed by the survey, which is related to the first, resides at the crossroads of economics and national security. On the one hand, Americans clearly realize that some of the limits on U.S. power are economic and as a result, our allies must bear a greater part of the burden of defending our common interests. On the other hand, the study shows a willingness to spend more on conventional defenses to maintain a credible deterrent, in exchange for significant reductions in the U.S. and Soviet nuclear arsenals. Yet the cost of such improvements in our conventional defense posture will likely be considerably greater than those entailed in maintaining the nuclear deterrent. Such increased spending on

conventional defense would inevitably draw resources away from domestic programs. Yet, the majority of respondents overwhelming rejected a policy aimed at achieving military superiority over the Soviet Union, in part because of the cost entailed by such an enterprise. It would appear, therefore, that Americans are only just beginning to grasp the full range of relationships between economics and defense. As we face a future where all our spending decisions may be severely strained by the realities of the budget deficit, it is clear that we need to increase public understanding of these relationships between economic issues and national security.

In conclusion, I would like to stress the extraordinary opportunity this project offers the leaders of America. This survey demonstrates that there will be strong public support for a clearly articulated, realistic foreign policy; as I said earlier, I believe that the ingredients for the forging of a new bipartisan consensus on national security are found in this study. In addition, this study has highlighted several issues that need further public discussion, if the consensus on foreign policy elucidated by the survey is to be maintained in the coming decades. I hope that you will join me in welcoming this project and that you will work with us to see that it gets the widest possible attention.

PREPARED STATEMENT OF THOMAS J. WATSON, JR.

I'm happy to join others today who will be talking in greater detail about the results of this project. I want to say a few words about how it fits into what I see as our paramount national security objective: getting the country on track with a policy for dealing with the Soviets that most Americans can support for the long haul. That means a policy based on our true priorities, our capabilities, and a sensible view of the threats and opportunities posed by changes now taking place in the world.

Each of us in this room could make a pretty good run at laying out such a policy. Many of us might even be able to agree on such a policy. But it would not be worth much if it is not embedded in the way the American public thinks.

That's why this effort to understand the public's thinking is so important. It's not just a few people getting together and deciding what's best and then going out to convert the public to their view. Instead it seeks to tap into that great reservoir of good common sense out there by encouraging people to think about where they want our country to go over the next two decades, to face up to the tradeoffs needed to get there, and to focus on what that means for decisions that have to be made now or in the next few years.

That kind of common sense could have saved us from some of the exercises in futility that we've gone through in the past, resulting from failing to look far enough down the road; for example, deciding to put multiple warheads on our missiles without thinking about what would happen when the Soviets did the same.

Of course we can't make weapons decisions by asking the public to choose between Winchesters and Remingtons, to use a Civil War example. But when I was Chairman of the General Advisory Committee on Arms Control and Disarmament ten years ago, I discovered that citizens do not need to be experts to make well-informed judgments about basic, long-term policy choices.

I am impressed by what happens when people are approached in the way this project did. After leaving my job in Moscow, I did a lot of speaking to audiences around the country on the subject of nuclear weapons and the Soviets. I quickly discovered that the message had to be pretty simple and straightforward, or a collective glazing over of the eyes would set in. From that I

concluded that people have a low tolerance for tough problems in the national security field. But now this project suggests I may have been too hasty in reaching that conclusion.

Ordinary citizens in five cities around the country have shown that they can and will tackle these questions in a sensible and tough-minded way. But only if they are convinced they are looking at honest and real choices. The choices also have to be put in the long time frame that people who are not experts believe they can and should have opinions on.

And that brings me to the thought I would like to leave with you, Senators. We are today offering evidence that there is now a great opportunity for leadership in national security: leadership that connects with the public and asks people what they want in the long term, rather than telling them what they should want; leadership that honestly lays out what we have to give up, or to risk, in both the short and long term, to get what we want; leadership that clearly respects and reflects the deeply held beliefs of the American people.

Thank you.

PREPARED STATEMENT OF CYRUS R. VANCE

I am especially pleased to be able to testify today, along with my distinguished colleagues Thomas Watson, Howard Swearer, and Daniel Yankelovich, on a project which relates directly to our nation's need for sustained public interest and support for our foreign and national security policies.

Over the past two years, the Public Agenda Foundation in New York and the Center for Foreign Policy Development at Brown University combined forces to explore what both the experts and the public believe should be our nation's policies between now

and the year 2010. Howard Swearer and Dan Yankelovich will share with you the details of this project, so I simply want to stress what I found most unusual and important about it.

First, this project looks to the future -- to the year 2010 -- because both public and experts believe we must know where we are going if we are to succeed. Second, this project assesses the fundamental values that must always be taken into account for policies to endure in our democracy. Third, this project considers alternative policies for the long term as well as the near term, because it recognizes that the best way to democratic consensus is not through demagoguery or the imposition of some viewpoint, but through responsible leadership and reasoned debate and public judgment.

In recent years, American foreign policy has unfortunately lacked constancy and purpose. This in turn has been reflected in the very large swings of public opinion every 4 or 8 years -- particularly on the great issues of our relationship with the Soviet Union and our strategy to prevent a nuclear war.

What makes this project special is that it points to a way to achieve sustained support for more predictable, enduring bipartisan policies. It engages the public in a thoughtful discussion not of one policy invented inside the Beltway or inside an ivory tower, but of alternative policies with all their pros and cons and difficult tradeoffs.

What makes the results of this project significant is that so many people have accepted the challenge to think about the risks and compromises that are part of the real world of foreign policy.

And what they have to say makes good common sense. A large majority of Americans wants us to explore with the Soviets ways to solve the common problems that we face -- including terrorism, nuclear proliferation, and regional conflicts that may escalate to nuclear confrontation. They recognize the need to be strong; they want us to reduce nuclear weapons stockpiles even if that means increasing our spending on conventional arms; and they expect our allies to do more to share the common burden.

What our results show is that the American public, far from being short-sighted and easily manipulated on foreign policy issues, will -- when presented with unbiased and meaningful choices -- make thoughtful decisions. I think it is now up to our nation's leaders to respond in like manner. They should develop a strategy which will meet the best interests of our nation and the world: a national security policy of an effective defense and resolute arms control; and a foreign policy of peace and stability not only in Europe but in the Third World. They should do so in a way which makes Congress and the American people partners in the entire endeavor, and I believe this project is the most promising demonstration yet of how to go about doing it.

PREPARED STATEMENT OF HOWARD R. SWEARER

It is a great pleasure to join with Cy Vance, Dan Yankelovich and Tom Watson in presenting the results of an ambitious three-year study of American public views and attitudes towards the Soviets and nuclear arms, organized by the Public Agenda Foundation and the Center for Foreign Policy Development at Brown University. We have entitled our joint project "The Public, the Soviets, and Nuclear Arms," and we are focusing today on the results of the public education phase which we have called PUBLIC SUMMIT '88.

Let me tell you, first, about the leadership of our project; second, about how the project was carried out; and third, about some of the results that I found the most noteworthy.

In addition to ourselves, the project's Executive Committee, which I chair, includes Douglas Dillon, former Secretary of the Treasury and a founding member of the Committee on the Present Danger; William Hyland, former Deputy National Security Advisor to Presidents Ford and Carter and editor of Foreign Affairs; Joe Jordan, former Principal Deputy Assistant Secretary of Defense and President of the Center for Strategic and International Studies; Walter Massey, Vice President of the University of Chicago; David Mathews, former Secretary of HEW and President of the Kettering Foundation; Senator Mac Mathias, a former member of this Committee; General Shy Meyer, former Army Chief of Staff; and Alice Rivlin, former Director of the Congressional Budget Office and now Director of the Economic Studies Program at the Brookings Institution.

So, as you can see, we have a strong and diverse group leading this project. Two members, Dr. Jordan and General Meyer, had hoped to be here today and request your approval, Mr. Chairman, for their statements to be placed in the record of this hearing.

We have an equally strong and diverse National Council of over 100 leading Americans who have agreed to advise our Project and to make sure that it is completely fair and unbiased. Our members include Governors, Mayors, Generals, former Cabinet officers and members of Congress, business and labor leaders, educators and commentators, and national security and foreign policy experts across the political and ideological spectrum.

Our project has just completed the second of three phases. In the first, research phase, Public Agenda and Brown surveyed

over 40 representative focus groups of average Americans. We met with 10 groups of community leaders across the nation -- many of whom are constituents of the members on this committee. We also held over 20 workshops with defense and foreign policy experts in the U.S. and overseas. As a result of this public and expert research, we discovered that Americans want to make informed choices about our long-term directions toward the Soviets and on nuclear issues. They want to debate where our country should go by, say, the year 2010, and how do we get from here to there. They ask how can we have a successful policy unless we know and act on what we want to achieve.

As a result, we developed four alternative "futures" which provide quite different choices for the year 2010. Under Future 1, the U.S. would gain the upper hand over the Soviets. Under Future 2, we would compete with the Soviets, but cooperate on nuclear issues. Under Future 3, we would cooperate to solve common problems across the board. And under Future 4, we would defend only North America -- a form of military isolationism.

These futures appear to be simple; indeed that was the objective of the research and hard work that went into preparing them. They are not, however, simplistic. Each is carefully crafted to reflect certain values as well as certain assumptions about the Soviet Union, about nuclear weapons, and about America's role. Also built into the futures are the arguments for and against feasibility.

We made a conscious effort to include in each future some elements that studies showed would strike a responsive chord among many people and some other elements that would likely be seen by many as serious drawbacks. We did this in order to make sure these futures were effective devices for separating out and highlighting fundamentals that Americans can focus on, as well as

to engage the interest of the public and to assure evenhandedness, which is essential for getting and keeping public attention.

We also focused on near-term policy choices, over the next 3 to 5 years which would either enhance or impede the likely evolution of each of the futures. Would the American people support nuclear reductions even at the cost of greater conventional weapons spending? Would we cooperate to reduce nuclear risks in the Third World, even over the wishes of close allies? Would we proceed with SDI, even if that meant no START agreement? These are just examples of the kind of questions that were posed.

In our second, public education and debate phase, which we have just completed, we asked Americans in five cities -- Baltimore, Chicago, Nashville, San Antonio and Seattle -- to wrestle with these long-term and near-term choices. We asked them to consider the pros and cons, the costs, benefits and tradeoffs. And in a newly developed technique, we were able to obtain in-depth responses from 963 representative Americans who, after completing an initial questionnaire, debated these issues for nearly three hours before completing a second questionnaire which reflected their informed, considered judgment. Further, in each of these cities except Chicago, leading newspapers and TV stations cosponsored month long media-intensive public information campaigns, including town hall and other citizens meetings, at the end of which 76,000 Americans turned in ballots addressing the choices and the pros and cons.

We have now entered the third phase of our project, reporting our results to political leaders, policy-makers, Presidential candidates, Platform Committees, and ultimately the next Administration and Congress. We are excited about the

results because we believe they offer a means to bridge the gap that clearly exists between the public and many experts on these important issues. We believe that the results provide an opportunity for enlightened political leadership, drawing from Americans' basic values and sense of long-term direction.

Dan Yankelovich will brief you on the full results, but I want to mention two sets of findings and one overall implication from the findings that I find particularly noteworthy.

First, looking to the year 2010, we have found that the American people remain skeptical about Soviet intentions, but they are willing to open the door to a less antagonistic hostile future relationship with the Soviet Union, if the Soviets will do their part. Three out of four persons believe that we and the Soviets, in our own self interest, should cooperate together to solve global and Third World problems, like terrorism and nuclear proliferation, which they think represent a greater threat of nuclear war than a crisis in Europe or a surprise attack from the other superpower.

Second, looking to near-term issues, I find it interesting that three out of four Americans also favored reducing both sides' nuclear arsenals drastically even if it means building up American conventional strength. Almost as many (70%) favored reaching agreements to prevent regional crises from escalating into global war, even if it means doing things that close U.S. allies oppose.

I also find it interesting that despite the heavy support expressed for deep cuts in nuclear weapons, 56% were not willing to give up SDI to achieve these cuts. But, on the other hand, 59% would give up SDI (or share it with the Soviets) if necessary to create a closer working relationship between the two countries

on common problems. American opinion remains remarkably fluid and conflicted on the strategic defense initiative, but these numbers do suggest, I think, that Americans may tend to view any changes in SDI more in the context of changes in the overall US-Soviet relationship than in the context of nuclear arms reductions.

Finally, we can find clues as to a possible "composite" future that Americans may come to support. To most of our respondents, the most appealing aspect from Future 1 is military security; from Future 2 it is reducing the risk of nuclear war; from Future 3 it is cautious cooperation to solve common problems; and from Future 4 it is greater effort by our allies to share burdens and pursue common goals. That provides an outline, I believe, for effective bipartisan leadership, both Republican and Democratic, that can lead our country into the next century with sustained public support.

PREPARED STATEMENT OF SENATOR CHARLES McC. MATHIAS

I greatly appreciate this opportunity to join with Secretary Vance, Ambassador Watson and my other distinguished colleagues in expressing support for this extraordinary project, and in presenting its results to my friends on this committee.

This project, from the very beginning, has been concerned with the importance of bipartisanship in foreign policy. As we all know, too many times in the past policies have oscillated between partisan extremes, and public involvement and support has tended to be as transitory as it was shallow.

Too often have important American foreign policy initiatives been debilitated by party rivalry. Unfortunately, political rivals have often seemed more concerned with one-upmanship than

with addressing the very real issues and finding policies that will effectively address those issues. This partisan divisiveness has too often left us unresponsive to the rapidly changing international landscape. Bipartisanship, when it has existed, has sometimes been the result of personal relationships rather than founded on fact and policy. This project suggests the possibility of something more substantive and more lasting.

The results of this project have shown that Americans are increasingly concerned about their future in this international landscape. They see a growing number of threats, not just to the United States, but to all nations. Of course the public continues to fear that the nuclear arms race will spiral out of control -- and they also fear the military power of the Soviet Union and the threat that the Soviets represent to other nations.

But this project reminds us of a fact we may often overlook inside the Beltway: the public knows as well as we do that the arms race and the Soviet threat are not the only problems the United States must contend with. They are troubled by the risk that regional conflicts could escalate to a nuclear confrontation between the superpowers. They believe that the spread of nuclear weapons to other countries leaves the United States dangerously vulnerable and increases the threat to the whole world. They recognize that the emergence of more and more terrorist groups -- groups which descend to the most senseless destruction -- undermines the security of all nations. And many worry about threats to the environment, such as acid rain and the greenhouse effect; and wonder how to cope with the hundreds of millions of people around the world who are going hungry.

What's more, Americans believe that the United States and the Soviet Union can and should jointly address these problems as they move into the twenty-first century. Americans have by no

means forgotten the conflict-ridden past of U.S.-Soviet relations, and they harbor no illusions about trusting an adversary. But they seem convinced that a foreign policy that deals only with the Soviet threat and nuclear weapons does far too little to address other clear and present dangers to our national security. And therefore most choose, after deliberating on the risks involved, to maintain a cautious and prudent view of Soviet power, but to open the door to cooperation with the Soviets on a wide array of common problems such as terrorism and nuclear proliferation.

Notably, the results show that the public is often willing to make significant tradeoffs to move toward a more cooperative future: for instance, reaching agreements on how to avoid war in "hot spots" around the world, even if it means taking actions that our allies oppose, or making concessions on Star Wars to improve U.S.-Soviet relations. In short, while they retain a healthy and strong skepticism of the Soviets, Americans are ready to move toward a less hostile relationship, one that would better address what they feel are the long-term threats facing their children and grand-children.

This is a conviction held by a large majority of Americans across the political spectrum. It appeals to both conservatives and liberals, Republicans and Democrats.

As a former Member of this Committee, I am greatly encouraged by these results, for they point to a set of policies that members of Congress -- both Republican and Democratic -- can expect their constituencies to support in the long run.

Both American leaders and the American people do remain divided on certain issues, and confused about how to deal with others -- a condition not unfamiliar here in Congress! But on

the fundamental threats we must address, and on the basic direction that our country should follow, this project reveals a surprising degree of consensus. PUBLIC SUMMIT '88 shows that America has the chance to speak with one voice again. It is the responsibility, and the privilege, of Congress to listen to and then act on what the people have to say.

PREPARED STATEMENT OF GEN. EDWARD C. MEYER

I am happy to commend to you this effort to get the public to tackle more effectively the tough issues surrounding our dealings with the Soviets.

My own background leads me to look at this project from the viewpoint of those who are trying to conduct public policy that is responsible both to the public and to hard realities.

It's reassuring that Americans when pushed hard still stick to what I regard as a realistic view of the Soviets: we can't trust them, and we have to be strong to deal with them effectively.

It's also reassuring that Americans have no desire to cut and run from the problems that face us around the world, and decisively reject any idea of walking away from our alliances.

Given the long-term view of the public, it's not surprising to find a preoccupation with global and Third World issues. Anyone who looks down the road can see that there are problems looming that will eventually have to be dealt with.

I do not believe, however, that this means the American public wants its leaders to forget about dangers that continue to threaten us in Europe. For example, there is clear sentiment for

reducing nuclear weapons; but at the same time we see a strong willingness on the part of the public to build up our conventional strength if necessary to match the Soviets in the context of drastic reductions in nuclear arsenals. There is also strong interest in verification measures that will assure compliance with arms control agreements.

We see a strong desire by Americans to achieve a less hostile relationship with the Soviets. I share that desire. I think it will come to pass, however, only if the signs of change that we see on the Soviet side actually bear fruit in Soviet policies that Americans can live with and even work with. The continued strong suspicions that Americans harbor about the Soviets, as shown in the results of this project, demonstrate that Americans are not quick to revise judgments about the Soviets developed during decades of experience.

So I think there is an important message here for the Soviet leaders: Americans are indeed ready for a new relationship, but will be watching for the deeds that will gradually convince us that we can work together. At the same time, there is a message for American leaders: don't be blind to opportunities to work with the Soviets if our interests are advanced and we have safeguards against any downside risks.

It is impossible to conduct an effective defense policy without sustained public understanding and support. The results of this project, and the way in which it was carried out, offer both important food for thought and constructive ideas for getting the public fully engaged on these issues in the future.

Thank you.

PREPARED STATEMENT OF MICHAEL J. MATHESON

I am pleased to appear before the Committee in the company of Ambassador Glitman this morning to address legal issues associated with the INF Treaty. In my statement, I will respond briefly to certain specific questions that have been raised, and we would of course be happy to answer any further questions the Committee may have on these or other legal issues.

First, questions have been asked about the legal status of the Memorandum of Understanding (MOU) regarding the establishment of a data base, and in particular whether any action by the Senate is necessary to confirm that status. The answer is that the MOU is an integral part of the Treaty, and therefore has precisely the same legal status as the rest of the Treaty. This is clearly provided for in Article I of the Treaty and in the penultimate paragraph of the MOU itself; it is also clearly and authoritatively stated in the President's transmittal request and the Secretary of State's report on the Treaty. In this respect, the MOU differs from the statements and documents relating to the SALT II and Panama Treaties that were outside the treaty texts. Accordingly, there is no need for any Senate action, apart from Senate advice and consent to the Treaty itself, to confirm the legal status of the MOU.

Questions have also been asked as to what differences there are between the U.S. and Soviet understanding of the phrase "principles of international law", and how these might affect various issues under the Treaty. The answer is that while there may be differences in some respects between the U.S. and Soviet positions on international law, we are not aware of any significant difference with respect to the one reference to that phrase in the INF Treaty, namely in Article XII concerning national technical means of verification.

Paragraph 1 of Article XII of the Treaty provides that:

For the purpose of ensuring verification of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

Paragraph 2 of that Article provides that neither Party shall interfere with national technical means of verification of the other Party operating in accordance with paragraph 1.

National technical means include a broad range of systems for collecting intelligence. Such systems include reconnaissance satellites, ships, aircraft and ground stations that are used to monitor missile tests. We are aware of no significant differences between U.S. and Soviet views on the scope of the phrase "principles of international law" in this connection. This is the only reference in the Treaty to such principles.

Next, a series of questions have been asked about the meaning and necessity of Article XIV of the Treaty. Article XIV provides that:

The Parties shall comply with the Treaty and shall not assume any international obligations which would conflict with its provisions.

This provision reflects the duty of each Party under customary international law to comply in good faith with the Treaty. It does not impose any additional obligation on the Parties, nor does it broaden the interpretation of other obligations in the Treaty. It will not affect existing patterns of defense collaboration or cooperation with our Allies, nor will it preclude cooperation with our Allies in modernization.

The negotiating record of the Treaty clearly supports this reading of the Treaty, and indicates that in the end the

Soviets acquiesced in the deletion from the Treaty of all "non-circumvention" language. This aspect of the negotiations is summarized in a presentation by Ambassador Glitman that was introduced into the record by Secretary Shultz during his appearance before this Committee on March 14.

Such language has been included in treaties on a number of occasions to reiterate the duty of parties to comply in good faith with their treaty obligations, and there is nothing unusual or improper in doing so. For example, in the case of the United States, such language was used in the ABM Treaty and the NATO Treaty, and appeared in the SALT II Treaty in a context clearly separate and apart from the SALT II non-circumvention provision.

Finally, questions have been asked with respect to the role of the Senate in any modifications to the provisions of the Treaty, specifically with respect to the approval by the Special Verification Commission of measures to improve the viability and effectiveness of the Treaty.

As you know, Ambassador Glitman went into this matter during the appearance of Secretary Shultz before the Committee earlier this week. As he noted at that time, changes in substantive Treaty obligations will only be made through the Treaty amendment process, which would require the advice and consent of the Senate. The special procedure involving approval through the Special Verification Commission will only be used to modify technical details in the Protocols to ensure that inspections and elimination operations continue to work effectively. As Ambassador Glitman noted, the adoption of such technical changes does not require the advice and consent of the Senate, but the Congress will be notified of such changes in accordance with the provisions of the Case Act. This

procedure is similar to a number of other treaties ratified by the United States in recent years, particularly environmental and maritime treaties with technical annexes which may require rapid updating.

This concludes my prepared statement. Ambassador Glitman and I would be happy to answer your questions on these issues or other legal aspects of the Treaty.

PREPARED STATEMENT OF DR. MANFRED EIMER

Introduction

I would like to discuss INF verification in five segments.

1. Verification objectives.
2. Overall verification concept.
3. Key verification elements.
4. Implementation of verification tasks and measures.
5. Conclusions.

Verification Objectives

First, let me discuss the verification objectives.

From the outset of the negotiations, the President has insisted on very high standards for verification. Specifically, the US has had three basic verification objectives for the INF agreement:

- o To ensure confidence in the agreement.
- o To help deter Soviet violation of the Treaty by increasing both the likelihood of US detection and the difficulty to the Soviets of committing an undetected violation.
- o To permit timely detection of Soviet violations so that we can take appropriate measures to protect US and allied security.

To achieve these objectives, we have developed the comprehensive verification concept and framework embodied in the INF Treaty.

The Overall INF Verification Concept

Let me now discuss the overall verification concept.

Verification is not an adjunct or after thought to this Treaty. Rather, the verification concept is woven throughout virtually every article of the Treaty. This is because the US designed its entire Treaty draft with verification in mind and insisted on negotiating verification aspects in parallel with, or as a part of, negotiating other aspects. Many of these verification aspects touched on sensitive issues on both sides so that some decisions were not made until the final stages of negotiations.

The INF Treaty regime is designed both to control the declared overt INF inventory and to make as complicated and costly as possible the acquisition of any covert illegal inventory. The bulk of the Treaty language focuses on the declared overt inventory.

The declared overt inventory is controlled by specific geographical and movement constraints and is confirmed by on-site inspection (OSI). The geographical constraints are based on a partitioning of the Soviet Union into limited areas where INF missiles systems are allowed, and a larger residual area where they are prohibited unless in announced transit. In this context, we see the principal function of National Technical Means (NTM) as not to "count," but to detect any illegal system.

Destruction of the INF systems is observed and confirmed by US inspectors.

Covert forces could derive from either: 1) systems produced before the Treaty in excess of the declared baseline inventory or, 2) illegal systems produced covertly during or after the

period of elimination. Maintenance of a militarily useful covert force is rendered difficult by the immediate flight test ban together with NTM search for illegal systems. The immediate flight test ban will render extremely risky flight testing, which is important for establishing the reliability of systems produced even from existing designs. Also, both NTM monitoring and the flight test ban will make very risky the exercising of militarily significant INF forces after the elimination period.

With this framework, our initial verification confidence will increase with time due to the aging and "enforced" inactivity of any possible covert missile systems.

Key Verification Elements

The key verification elements or "tools" are the following:

- o Production and Test Ban.
- o Continuous Portal Monitoring (including perimeter patrol).
- o Restriction of INF Missiles and Launchers to Designated Facilities and Areas.
- o Deployment areas (DAs) and "Corrals."
- o Transit Notifications.
- o Elimination Procedures.
- o Baseline Inspection.
- o Short Notice Inspection of Active Missile Support Facilities and Operating Bases.

I will discuss each of these briefly.

- o Production and Test Ban. Production of missiles, launchers, and stages is banned upon entry into force of the Treaty. Flight testing is also banned. The plant in Votkinsk that has assembled the SS-20 will be monitored by a continuous US on-site presence, which should ensure that SS-20s are no longer being produced there. Thus, the Soviets would be forced to turn to a

covert assembly line if they sought to produce SS-20s. If they did so, they would need to "qualify" that covert line by testing the missiles or accept great risk through uncertainty in performance. However, such testing would be readily detectable by US NTM. The production ban, test ban, and continuous monitoring at Votkinsk act in concert to help deter cheating.

o Continuous Portal Monitoring (including perimeter patrol).

For up to 13 years the US will have the right to station inspectors permanently outside any plant that assembles the SS-25 (or any missile that has a stage similar to a stage of the SS-20). Currently, the only such plant is in Votkinsk, which also was the assembly plant for the SS-20.

o Restriction of INF Missiles and Launchers to Designated Facilities or Areas. Missiles and launchers may be located only

in designated facilities or areas except when in announced transit. This partitioning of the Soviet Union and basing countries into permitted and prohibited areas reduces the verification task to more manageable proportions. "Counting" would be accomplished chiefly by on-site measures at declared facilities and bases, small relative to the rest of the land mass of the USSR, East Germany and Czechoslovakia. In the remaining areas of these countries, the verification task is detection of any covert INF systems. Even one such missile or launcher detected in the prohibited area would be a violation.

o Deployment Areas (DAs) and "Corrals." During the reduction period, geographical restrictions will provide a verifiable basis for distinguishing deployed from non-deployed INF. Deployed intermediate range missiles (IRMs) are those located in specified areas where they may legally operate and exercise. Deployed short-range missiles (SRMs) are those located at their

declared operating bases until they are "corraled" into special elimination facilities within 90 days.

o Transit Notifications. In order to help resolve ambiguity regarding whether or not an INF missile or launcher outside a DA or missile support facility is in legal transit or is an illegal system, the Treaty requires the sides to provide information on the departures, arrivals and specified points in between.

o Elimination Procedures. For missiles, launchers, support equipment, and support structures listed in the MOU, elimination is virtually synonymous with their physical destruction. The Elimination Protocol details procedures to achieve permanent destruction. In general, missiles may be destroyed by burning or demolition (or in the case of IRMs for a very limited period, launched); and launchers and launch-critical support equipment must be irreversibly altered so as to be incapable of transporting or launching IRMs.

Because of the small size and mobility of systems covered in the INF Treaty, elimination will be confirmed by on-site inspection.

In most cases, it would be impractical or impossible to destroy missile support facilities, deployment areas, and operating bases; instead, elimination means that all INF activities there will cease. To help verify this, the Treaty provides for two types of interior OSI:

- 1) "Close-out" Inspection. This is a one-time check of all facilities except missile production facilities to help ensure that all bases and support facilities have ceased any INF activity.
- 2) Short-notice Inspection at Formerly Declared Bases and Facilities. All facilities and bases eliminated and

subject to the one-time close-out are also subject to subsequent short-notice inspection to help deter the reactivation of former INF infrastructure to support a covert force. The Treaty provides for a quota of such inspections for ten years after global elimination.

o Baseline Inspection. A very detailed exchange of data, contained in the Treaty's Memorandum of Understanding (MOU) and initial data update within 30 days, establishes the baseline declarations against which subsequent compliance judgments will be made. The MOU is intended as a "snap shot" of the announced status of INF shortly before the Treaty was signed. In it, each side declared the number and location of each Treaty-limited item, technical details about these items, and other pertinent data. Data updates are required at approximately six-month intervals during the three-year reduction period.

The baseline inspections will confirm the overt inventory at declared facilities, and thereby encourage truthful Soviet declarations. The baseline inspections would force the Soviets to hold any illegal missiles at covert locations, thus potentially exposing them to US detection.

o Short Notice Inspections of Active Missile Support Facilities and Operating Bases. All support facilities (except missile production) are subject to short-notice inspections. A yearly quota of up to 20 such inspections may be conducted. These short-notice inspections will help deter the Soviets from using the existing infrastructure to maintain and operate illegal INF systems.

Implementation: Verification Tasks and Measures

Now I'd like to move from the verification concept and elements to implementation via the key INF verification tasks

and the specific measures for handling them. Some of the measures will be described in detail. They include:

- o Verifying the veracity of the initial Soviet declarations in the MOU and initial update.
- o Verifying compliance with numerical limits on missiles and launchers.
- o Verifying that all declared systems are eliminated as required.
- o Verifying compliance with the ban on production and flight-testing, (effective upon the Treaty's entry into force).

Let's examine the specific verification measures that can be used to accomplish these tasks.

1. Baseline Verification

US intelligence has devoted substantial monitoring resources to Soviet INF, especially the SS-20. Our resulting intelligence holdings were used to assess the Soviet MOU declarations.

Starting 30 days after the Treaty's entry into force, the US can conduct, over 60 days, inspections at 115 sites in the USSR, GDR, and Czechoslovakia, using up to 200 inspectors in teams of 10 people each. Subject to inspection are all INF missile support facilities except missile production facilities and all missile operating bases. The former category includes missile and launcher repair facilities, missile and launcher storage facilities, test ranges, and elimination facilities.

We do not expect actually to find discrepancies as the result of our inspections. Rather, we view these inspections as a means of encouraging truthful declarations in the first place, i.e., as a deterrent to cheating.

We must assume the Soviets could try to hide additional missiles covertly. Given the Soviet record of noncompliance,

the relative small size and mobility of these systems, and the Soviet practice of maskirovka (concealment and deception), we should not rule out this possibility. Indeed, we will devote substantial monitoring resources to searching for any evidence of covertly-held INF.

2. Verification of Numerical Limits on Missiles and Launchers.

Verification of numerical limits is keyed to geographical restrictions, but these restrictions apply differently to the two major classes of INF systems -- IRMs and SRMs. Any missile or launcher detected outside declared areas and not in legal transit is a violation. The transit notifications described earlier will help us distinguish legitimate transit from the operation of a covert INF system outside declared areas.

SRMs are defined as deployed if they are located at a missile operating base. All deployed short-range missiles and all launchers must be corralled in their separate elimination facilities within 90 days of entry into force. Non-deployed missiles need not be moved to corrals for 12 months. Elimination facilities for missiles and launchers must be at least 1,000 km apart. Once there, they may not leave, and all must be destroyed within 18 months of entry into force.

The advantages of this scheme for controlling deployed SRMs are two-fold. First, since all SRMs are taken out of deployment status in 90 days or less, there will be no overt deployments to count. Second, since missiles and launchers are segregated in corrals 1,000 km apart, and subject to OSI, these systems cannot be easily redeployed without our detection.

IRM reductions are more gradual, as required by military and political exigencies. IRMs must continue to exercise to remain a viable force until they are eliminated in three years. Deployment areas were devised to control and define deployment for verification. Deployment areas (DA) are designated areas within which IRMs and their launchers may operate and within which their operating bases are located. Every intermediate

range missile or launcher within a DA is considered deployed regardless of its operational readiness.

We do not use NTM to actually "count" SS-20s in a DA at any given point in time. First, the areas are large. Second, both the Soviets and we must protect from observation mobile missiles in the field to prevent them from being easily targeted. Such protection for survivability in deployment areas is permitted by the Treaty.

Short-notice inspection has a major role with regard to non-deployed limits. Non-deployed systems are confined chiefly to storage, repair, and elimination facilities.

The key rules for the conduct of short-notice inspection are:

- 1) Inspections may be only within pre-specified boundaries, delineated in detailed site diagrams exchanged between the sides.
- 2) The inspectors have the right to inspect anything big enough to be or contain a Treaty-limited item.
- 3) The inspectors can patrol the perimeter of the site and inspect outgoing vehicles.
- 4) The burden of explanation is on the inspected party.

Equipment allowed for inspections include measuring and weighing devices, cameras, and radiation detection devices.

3. Verification of the production ban

Beginning immediately upon entry into force, the sides are forbidden to produce INF missiles or stages or to launch or flight-test the missiles.

The US has long been aware of similarities between the two-stage intermediate-range SS-20 missile and the three-stage SS-25 intercontinental-ballistic missile. Late in the negotiations, the Soviets revealed that the first stages for the

Two missiles, while not interchangeable, are very similar in external appearance. This posed a special problem for verifying a production ban. To ensure that the Soviets are not producing SS-20s in the guise of SS-25s or other GLBMs not limited by this Treaty, the US negotiated the right to maintain a long-term continuous monitoring presence at the gate of any plant which assembles a GLBM using stages, any one of which is outwardly similar to a stage of a solid-propellant GLBM listed in Article III of the Treaty (e.g., the SS-25). This continuous monitoring right will last for 13 years if the Soviets continue to produce SS-25s or any other missile with a stage outwardly similar to the first stage of the SS-20. If the Soviets cease such production, the monitoring period would be shorter, but in no case less than three years after the Treaty enters into force.

The Soviet Union has assembled SS-25s and SS-20s at the same plant. That plant is at Votkinsk, approximately 600 miles northeast of Moscow. We have the right to implement the continuous portal monitoring at Votkinsk, 30 days after the Treaty enters into force. The key features are:

- o Vehicles large enough to contain the SS-20 may exit only at one designated "portal," at which inspectors are posted.
- o There may be only two other exits, each of which will be monitored by remote means, such as video cameras.
- o The perimeter of the facility may be patrolled by inspectors to ensure that no incursions have occurred.
- o Every vehicle exiting a portal may be weighed and measured to determine if it is capable of containing an SS-20. Vehicles incapable of containing such a missile will pass without further inspection.
- o Any vehicle that is large and heavy enough to contain an SS-20, but is declared by the Soviets not to contain a missile, may be inspected. It is the responsibility of the Soviets to show that the vehicle does not contain a missile.
- o Vehicles exiting the portal, which are declared to contain or

could contain a missile, are subject to the following procedures:

- The US may image the contents of each missile canister (e.g., by radiography).
- The US may select eight canisters a year for the Soviets to open for interior viewing. As with radiography, the viewing procedures will enable us to distinguish an SS-20 from an SS-25 by verifying that the second stage of the SS-25 is in fact different in appearance from the second stage of the SS-20 as well as the presence of an SS-25 third stage. The two viewing means will serve as check and calibration, one means against the other.

As discussed before, the flight-test ban is designed to strengthen the production ban by making it very difficult, if not impossible, to qualify a covert assembly line. Verification of the flight-test ban will rely on highly capable NTM systems.

Over time, with the flight-test and training ban and the limited shelf life of solid propellant missiles, it will be very difficult, if not infeasible, for the Soviets to maintain a militarily-useful covert force.

4. Verify elimination of missiles, launchers and support equipment

The Protocol on Elimination contains detailed procedures to:

- o Ensure complete and permanent destruction.
- o Verify the number and type of items being eliminated.
- o Verify the fact of destruction.

Specific procedures are prescribed for each type of item to be eliminated; thus, the protocol serves as a destruction manual. Missiles, launchers and support equipment are destroyed

at special elimination facilities, where inspectors may observe the whole destruction process from start to finish.

Alternatively, a quota of IRMs can be destroyed by launching in the first six months. Training equipment and support structures will be destroyed where they are located, and inspectors may observe the results of destruction after the fact.

Now, let's turn to some of the specific means by which INF systems will be destroyed. The SS-20 will serve as an example.

The Soviets must notify us 30 days before they begin destruction of INF systems, providing us information on the number and type, the elimination site, the location from which removed, and the point of entry for our inspectors. We are permitted 20 inspectors in the team that carries out the inspections.

Prior to the missiles' arrival at the elimination facility, the Soviets will remove their nuclear warhead and guidance packages. However, the necessary "reentry vehicle" (i.e., heat shield for the warhead) will be delivered to the elimination facility. The SS-20 missile is always contained in a "canister" which provides the missile's environmental control. Just prior to a missile's destruction, the US inspector may direct the Soviets to open this canister so that he may visually inspect its contents to ensure that an SS-20 is actually in it.

The Soviets have the option of destroying the SS-20 at the facility by burning its fuel or demolishing the missile. Any fuel, nozzles, or motor case surviving this process must be burned, crushed, flattened, or destroyed by explosion. The RV must also be destroyed, by crushing or flattening.

The transporter-erector-launcher will be stripped of its erection/launch device -- basically the hydraulic erection arm and the missile carriage. All components of this device must be cut at locations that are not assembly joints. Mountings and leveling supports will also be removed from the transporter chassis and cut as above. Additionally, at least 0.78 meters

must be cut off the chassis. As a result of these procedures, all launch-critical equipment is permanently destroyed and the structural integrity of the remaining transporter for erecting its missile is destroyed. (This altered transporter can be used for other purposes.) US inspectors may observe each step described. The vehicle used to transport resupply missiles and load them onto launchers will also be destroyed, as will simulator missiles and launchers used in training.

The Soviets may, for destruction purposes, launch up to 100 SS-20s in the first six months. The US is allowed to inspect each missile prior to launch and the Soviets are prohibited from telemetering test information on these flights. However, because such launchings provide information on missile performance regardless of telemetry, the US insisted on the six-month restriction and the quota. Our objective was to start the clock ticking towards the SS-20's obsolescence as soon as possible.

Conclusions

Let me now turn to our conclusions.

How then, does INF Treaty verification stack up against our goals for effective verification?

Deter violation

The verification measures negotiated for this Treaty pose significant risks for the Soviets of US detection, and impose considerable complexity on the Soviets should they seek to violate it to acquire a useful covert force. A Soviet "deception planner" would be expected to adopt a conservative view of his ability to escape US detection of such a violation. He would not know fully and precisely US monitoring capabilities, and he would place a high premium on avoiding accidents and security slips that could result in inadvertent exposure. Thus, to the extent that the Soviets are averse to having their

noncompliant behavior exposed, the Treaty's verification goes a long way in deterring violations.

Making the Soviets more averse to being judged guilty of a violation is a goal of US compliance policy. The Soviets must know that they will pay a real price for noncompliance. However, the political will to extract such a price from the Soviets cannot be legislated or negotiated in advance. Nor are there institutional procedures or innovations that can guarantee resolve. The US terminated its political commitment to the SALT I Interim Agreement and the SALT II Treaty largely in response to Soviet violations.

Create Confidence in the Agreement

The stringent verification measures we have negotiated are sure to help foster confidence in this agreement. This confidence will grow over time as the effects of the flight test ban and NTM surveillance seriously erode the capability of the Soviets to possess militarily significant INF forces.

Allow Timely Detection

In general, the more significant the violation, the greater the risk of detection by the US, and the more difficult for the Soviets to achieve without detection. For example, it would be much more difficult for the Soviets to maintain a high alert, ready, reliable covert force than an un-exercised, covert stockpile of INF weapons of questionable reliability. In this regard, the double global zero offers inherent verification advantages:

- o First, after the elimination period, all launch-critical INF infrastructure will be destroyed and no INF infrastructure (e.g., bases, manufacturing, storage facilities etc.) may be used to conceal or support INF systems.
- o Second, the immediate ban on flight testing of INF systems

will make it difficult over time to retain a covert force that can be made operationally useful.

- o Third, after the reduction phase is complete, the verification task will be solely to detect (not count) mobile INF systems -- a still demanding but less complicated task.

Thus, over time, and without any flight testing, we judge it will be increasingly difficult for the Soviets to hide a covert force that can be made operationally useful.

Effective, Despite Uncertainties

Despite the rigor of the INF verification regime, there will be unavoidable uncertainties and ambiguities. For example, we cannot be highly confident in the completeness of the Soviet baseline declarations, and evidence of future Soviet activity may be ambiguous with respect to verifying say, the production ban. But there is no such thing as perfect verification, especially in a Treaty involving mobile and sometimes small weapons possessed by a party with a record of noncompliance and whose territory encompasses eleven time zones and eight million square miles.

Despite these uncertainties, I believe that the verification regime negotiated for INF will be effective in permitting us to achieve the considerable benefits offered by the Treaty.

PREPARED STATEMENT OF SENATOR SAM NUNN

Mr. Chairman, Senator Helms, Members of the Committee: I welcome the opportunity to outline my views to date on "NATO Defense and the INF Treaty." I am appearing this afternoon in my individual capacity as Chairman of the Armed Services Committee. Although my testimony is consistent with the main points that I will recommend for consideration in our Committee's published report, I speak only for myself. Senator Warner and I will meet

with the Committee, starting tomorrow, to give our Committee an opportunity to discuss and decide on key recommendations for our report.

Context of the Committee's Inquiry

Let me begin with the context of the Armed Services Committee's inquiry. Last year, the Committee undertook a major series of hearings on national security strategy -- a subject which the Committee felt receives far too little attention both from the Congress and the U.S. defense community. This year, the submission of the INF Treaty provided the Committee the opportunity to follow up on last year's strategy hearings with a specific focus on NATO.

The Majority Leader and the Chairmen of the Committees on Foreign Relations, Armed Services and Intelligence agreed that the three Committees would work together on the Senate's review of the Treaty, recognizing that the Foreign Relations Committee has primary jurisdiction. The Majority Leader's coordinating group also decided that each of the three committees would provide reports to the Senate within their committees' specific areas of expertise. In my opinion, the level of cooperation on this treaty has established a model for all future ratification proceedings.

Over the last two months, the Armed Services Committee has conducted 20 hearings on "NATO Defense and the INF Treaty." The Committee examined such topics as NATO strategy, the conventional balance, Alliance resource policy, conventional arms control proposals, and tactical nuclear weapons modernization. Our witnesses included the Secretary of Defense, the Chairman of the Joint Chiefs of Staff and the Service Chiefs, the Supreme Allied Commander, Europe (SACEUR), General Galvin, and such distinguished outside experts as James Schlesinger, Henry Kissinger, Harold

Brown, Zbigniew Brzezinski, and Jeane Kirkpatrick. All hearings and witnesses are listed in an appendix to my prepared statement, which I would ask be printed in the record of this hearing.

The unclassified proceedings of the Armed Services Committee's hearings and meetings will be published by the Committee in 4 volumes. I am pleased, Mr. Chairman, to provide the first volume to your committee this afternoon. The three remaining volumes will be published prior to floor action on the Treaty.

In mid-February, the Committee turned its attention from broader issues of strategy and resources and began to focus on the Treaty itself. We devoted substantial effort to establishing an authoritative baseline as to its meaning. The Majority and Minority staffs conducted a comprehensive review of possible ambiguities in the Treaty text and identified 135 questions where clarifications were deemed necessary. In four painstaking days of hearings with Ambassador Glitman, the Committee went through the Treaty on an article-by-article basis and elicited detailed answers to these and other questions.

This review included a preliminary review of issues in the treaty negotiating history. Last Friday, the Committee conducted an eight-hour closed hearing on that subject. As you know, the INF negotiating history was not available for review until late last month, and it is quite voluminous. The Administration has provided the Senate with 31 binders of documents -- 10 times the volume of the ABM Treaty negotiating history submitted to us in 1986. We will continue to review these documents until the Treaty is acted upon by the Senate. We also reviewed in a closed hearing certain highly classified DOD programs and any possible impact on them related to the Treaty.

NATO Strategy

It is first important to examine the broader context within which the agreement must be considered. That context is principally shaped by two interrelated factors: the military strategy which the NATO alliance has established for maintaining deterrence and providing defense and the capabilities of NATO to implement that strategy.

More than two decades have passed since NATO adopted its strategy of Flexible Response, including Forward Defense. Flexible Response has explicitly envisioned the possible use of tactical and/or strategic nuclear weapons in the event a Soviet-Warsaw Pact conventional attack in Europe could not be contained by non-nuclear means. Forward Defense means defense as near to the inter-German border as possible, with the aim of losing as little West German territory as possible.

Although NATO deterrence has worked, the sad reality is that the Alliance has failed to implement the Flexible Response strategy effectively, primarily because the first leg of Flexible Response (conventional defense) remains inadequate. As a result, the nuclear threshold remains dangerously low. NATO today relies on the early use of nuclear weapons to deter both nuclear and non-nuclear attacks.

The second leg of the NATO triad, theater nuclear weapons, has traditionally suffered from limited public and official support. Although Alliance solidarity permitted the INF deployments, the consensus on modernizing theater nuclear forces again appears to be eroding. Indeed, at the recent NATO Summit, our leaders apparently found it inadvisable to even use the word "modernization." In summary, Mr. Chairman, Flexible Response sought to move NATO away from an overdependence on strategic

nuclear retaliation, but, paradoxically, only at the strategic nuclear level has the Alliance maintained an adequate force.

Although Flexible Response remains conceptually sound, the critical gap between the goals of the strategy and the force capabilities available to achieve them poses substantial dangers for the Alliance.

It is time for NATO countries and NATO leaders to ask themselves some very basic questions. For example, how is it that NATO--whose member states collectively outspend Warsaw Pact countries on defense and have nearly three times the Gross National Product--has been unable to provide sufficient capabilities to implement its military strategy?

In part, the answer can be found in NATO's unwillingness to organize and allocate its resources for conventional defense in the most effective and efficient way. NATO dissipates a large portion of its defense expenditures into national systems that are often duplicative, non-standardized, and in some cases not even interoperable with other allied systems.

In part, NATO's failure to acquire a stalwart conventional defense capability reflects the almost ostrich-like tendency to ignore the military and political dangers of an excessive reliance on the early resort to nuclear weapons. In addition, NATO member states have divergent views on equitable sharing of the burdens and risks of common defense. Fears of the devastation of a prolonged conventional conflict or a nuclear war limited to Europe have fostered policies that have effectively precluded the development of the capabilities required by Flexible Response and Forward Defense.

NATO-Warsaw Pact Military Balance

NATO's deficiencies are most apparent and most dangerous at the level of conventional forces. To be sure, NATO has improved its conventional defenses over the last several years. However, the rate of NATO improvement has simply not kept pace with the growth in the Warsaw Pact's warfighting capabilities. As General Galvin told the Committee: "In general, since 1973, the size of the Soviet military machine facing NATO has grown almost 50%, while NATO forces grew little more than 10%." Admiral Crowe warned of "an increasingly negative conventional balance, and adverse trends in many of the major weapon categories." The Chairman of the Joint Chiefs of Staff expressed particular concern over the low level of sustainability items and munitions for NATO conventional defense, declaring: "This trend has, in turn, lowered the nuclear threshold and raised the risk of general escalation."

Perhaps most ominously, the Warsaw Pact has improved its ability to conduct a short-warning, massed armored attack. NATO is especially vulnerable to such an attack, particularly against the Northern Army Group. NATO suffers from inferior firepower; low levels of sustainability, especially in munitions; inadequate reinforcement rates; and peacetime maldistribution of its forces. NATO's posture is further weakened by the Warsaw Pact's chemical warfighting superiority.

There are considerable risks that NATO forces could be defeated quickly by conventional means. However, any attack contemplated by the Warsaw Pact would certainly not be without risks. The outcome of a conventional war depends on many unknowns: the relative performance of competing weapon systems, quality of personnel, training, leadership, morale, to name a few. Although NATO has doubts about its own capabilities, the Soviet Union may also have legitimate concerns about its ability

to achieve a quick conventional victory, before the reliability of East European nations is fully tested and before it might become involved in a two-front war (i.e., the simultaneous engagement of its large forces located on the Chinese border).

Despite these uncertainties on the Soviet side, NATO cannot afford to assume that the Soviets will always be deterred from aggression. NATO must focus on capabilities, not intentions, and major improvements in the conventional balance are required.

NATO in the Post-INF Environment

Mr. Chairman, if the INF Treaty is approved by the Senate, it will not be the end of the road for NATO. In some respects, it will be only a beginning. Whether history judges the INF Treaty to have made a positive or a negative contribution to the defense of Europe will depend ultimately on which road the Alliance chooses to travel at this critical juncture. One NATO road leads backwards down a slippery slope to European denuclearization, American disengagement, and Soviet domination. The other NATO road leads forward to the solid ground of solidarity, stability, and security.

The "slippery slope road" is marked with several warning signals:

- * A growing nuclear allergy in the West coupled with continued NATO reliance on early use of nuclear weapons in response to a non-nuclear attack.
- * Changed public attitudes toward the United States and the Soviet Union.
- * U.S. and European fiscal and budget realities.

- * NATO's reluctance to think boldly in the area of conventional arms control.
- * A continuing failure of political will in getting the most out of our collective defense resources.

We are perhaps fortunate that the warning signs on the "slippery slope road" are so unmistakable. If we view these warnings as trends that need to be reversed rather than as milestones on a one-way road to our ultimate demise, NATO can persevere. I believe that the roadmap to firm, level ground requires a "three track" approach.

The first track requires revolutionary conventional force improvements, including the vigorous implementation of such programs as the Balanced Technology Initiative (BTI), NATO Cooperative R&D,⁴ and side-by-side testing which could lead to joint weapons procurement. NATO must also assign the highest priority to eliminating its critical conventional warfighting deficiencies -- what I have termed "automatic escalators."

The second track involves bold and innovative conventional arms control proposals, including a radical new approach to Confidence-Building Measures. With new thinking on both sides, we could significantly increase the transparency of possible Soviet war preparations and reduce significantly its options for a surprise attack. What I have in mind are innovative schemes for on-site access to militarily significant nodes in the Warsaw Pact's mobilization infrastructure, such as airfields, railroad yards and even headquarters. Pilot projects on verification could also be explored in parallel with negotiations on actual reductions and, if they are agreed upon, be split off and implemented in advance of any agreement on reduction, which may take years.

The third track entails vigorous public education, including clear explanations of our military needs and our arms control rationale.

In short, Mr. Chairman, I would suggest that the INF Treaty is much like a hole taken out of the middle of a donut. While we've succeeded in removing a number of nuclear weapons in the middle of NATO's deterrent spectrum, we've left on one side a serious imbalance in battlefield nuclear and conventional forces, and on the other, a strategic balance that is in rough parity. If INF is to prove beneficial to the security of the Alliance over the long run, NATO's challenges are clear:

-- We must press forward with the kind of three-track approach I have outlined for establishing a stable, non-threatening balance of conventional forces in Europe.

-- We must pay careful attention to the battlefield nuclear weapons area. I believe that the modernization of our remaining battlefield and theater nuclear forces is a necessity. However, we must resist the temptation to use the INF Treaty as the pretext for reviving proposals for nuclear systems which could not pass muster before. We must not forget that every conventional platform and delivery system which is now given a nuclear role effectively removes one more weapon from NATO's conventional order of battle. As we conduct needed modernization in these forces, we must not give the impression that a "nuclear fix" is the answer to all of NATO's deterrent woes. Let me emphasize this point - our goal is to raise the nuclear threshold in Europe, not to lower it.

-- We must continue our efforts to achieve a stabilizing and effectively verifiable START agreement.

-- Lastly, Mr. Chairman, we must try to ensure that future

NATO leaders accomplish what this month's summit failed to produce: a roll-up-your-sleeves, get down to business, work program designed to confront the hard realities of NATO's current military deficiencies. NATO was certainly within its rights to celebrate the signing of the INF Treaty. But in the cold dawn of the day after, NATO's challenges remain formidable.

Assessment of the Treaty

Turning now to the Treaty itself, in the broad sense I believe the INF Treaty can make a modest but useful contribution to NATO security. There are a number of positive features of the Treaty, particularly:

- disproportionate Soviet reductions (a precedent which could prove useful in the negotiation of a significant conventional arms reductions agreement);

- on-site inspection; and

- cooperative measures for enhancing verification through national technical means.

At the political level, the Treaty is a triumph for Allied cohesion and coordination. It is also a tribute to the Governments in the basing countries which displayed resolve in implementing INF deployments in the face of widespread domestic opposition and skillful Soviet propaganda.

In addition, the Treaty reflects the fruits of continuity in the United States between two successive administrations -- one Democratic under President Carter, the other Republican under President Reagan -- which, with bipartisan support in Congress, stood steadfastly behind NATO's "dual track" approach. I would

add that our Nation has been represented in these negotiations by a very able team under Ambassador Kampelman and Ambassador Glitman.

Nonetheless, unless this Treaty is coupled with a subsequent START agreement, its military significance is, at best, marginal. Every target currently targeted by Soviet shorter-range and intermediate-range systems can be assigned to other Soviet nuclear systems. This includes strategic systems, such as ICBMs or the Yankee-class submarines which have now been redeployed from our coasts to European waters, or intermediate-range systems not covered under the Treaty, such as air-launched or sea-launched cruise missiles. Alternately, the Soviets could develop and deploy a "new type" ground-launched ballistic missile replacement for the SS-20 provided that missile were tested one time at a range in excess of 5500 kilometers, even if it were tested on every subsequent occasion at INF ranges.

In addition, the Treaty's verification regime cannot provide guarantees that no banned missiles are covertly maintained. Rather, the Treaty depends on a Soviet calculation that either (1) such systems would not be militarily viable due to the ban on flight testing, training, infrastructure, etc., or (2) that the political risks of cheating outweigh the military gain. Whether these assumptions are valid is the central issue before the Senate with regard to the verifiability of the Treaty. I understand you received the views of the Intelligence Committee on this issue when Senators Boren and Cohen presented their report this morning.

On balance, I believe that the positive features of the Treaty outweigh its weaknesses. Moreover, I am convinced that were the Senate to reject this Treaty, the political repercussions in Europe and elsewhere would be very significant.

For these reasons, I would hope that the Foreign Relations Committee would report the Treaty to the Senate with a recommendation that it be ratified -- although not necessarily without amendment.

Mr. Chairman, I regret that under the current situation, a discussion in this testimony of even my personal recommendations on possible treaty amendments is impossible. During our hearings, Members raised a number of concerns with regard to a number of possible ambiguities in the Treaty. These included Article XIV, the so-called "double negative" problem in Article VI, the Article XVI provision allowing changes to the Protocols without Senate approval, and the applicability of the provisions defining GLCMs and GLBMs to future weapons types, to name only a few.

I had thought that we had received adequate answers to these questions in testimony and written responses by the Administration. However, in light of the letter sent last Friday to Senator Lugar by White House Counsel Arthur B. Culvahouse, considerable doubt has been cast over the valuable work done by our Committee, as well as by the Foreign Relations and Intelligence Committees. Until this matter is clarified, I see no point today in going into a detailed discussion on specific issues.

Role of the Senate in Treaty Ratification

Mr. Chairman, the background for this development is the dispute with the Administration over the Senate's role in the treaty ratification process. On February 9th, Senator Byrd and I received a letter from Secretary Shultz which we had hoped would resolve this dispute and establish an authoritative basis for the Committee to reach conclusions as to the meaning of the Treaty.

In the letter, Secretary Shultz provided three assurances:

"All INF testimony of Executive Branch witnesses, within their authorized scope, is authoritative. We will inform the relevant Committee of any instance in which a witness' testimony is not authoritative in any respect."

"Administration testimony and materials for the record can be regarded as authoritative, as described above, without the need for the Senate to incorporate them in its Resolution of Ratification."

"The Reagan Administration will in no way depart from the INF Treaty as we are presenting it to the Senate."

Based on these assurances, the Committee proceeded with detailed Administration testimony on the Treaty, believing that the treaty the Senate is being asked to approve is the same treaty that was signed and the same treaty that will be respected in the future. Unfortunately, the Administration chose to cast considerable doubt on the authority of Secretary Shultz's letter when it sent the Culvahouse letter.

In light of this development, I believe the following principles will have to be affirmed in some form before the Senate can complete its action on the Treaty:

1. The testimony of all Executive Branch witnesses and any submission for the hearing record can be regarded by the Senate as authoritative.

2. The meaning of the Treaty as presented to the Senate through its committees can be regarded by the Senate as authoritative without the necessity of the Senate's incorporating

that testimony and material in its Resolution of Ratification through understandings, reservations, amendments or other conditions.

3. A meaning for the Treaty different from that presented to the Senate by the Reagan Administration cannot be adopted without the approval of the Senate.

Until such time as we affirm these three principles, I will have to reserve judgement on whether or not specific amendments to the Treaty are necessary, since it is impossible to determine whether the clarifications we have received in testimony are authoritative.

PREPARED STATEMENT OF SENATOR JOHN WARNER

THANK YOU, MR. CHAIRMAN. I AM HONORED TO APPEAR WITH MY CHAIRMAN AND FRIEND, SENATOR NUNN, TO TESTIFY BEFORE THIS DISTINGUISHED COMMITTEE ON MY PERSONAL VIEWS REGARDING THE INF TREATY.

THE ARMED SERVICES COMMITTEE HAS COMPLETED A VERY THOROUGH SERIES OF HEARINGS ON THE TREATY AND THE OVERALL NATO STRATEGY CONTEXT FOR THE TREATY. CHAIRMAN NUNN IS TO BE COMMENDED FOR HIS THOROUGH APPROACH TO THIS IMPORTANT TASK.

IN ADDITION TO THE TESTIMONY RECEIVED IN OUR HEARINGS, SENATOR NUNN AND I WROTE TO FORMER PRESIDENTS NIXON, FORD AND CARTER, EACH OF WHOM PURSUED ARMS CONTROL AGREEMENTS DURING THEIR RESPECTIVE TERMS OF OFFICE, TO SOLICIT THEIR VIEWS ON THE INF TREATY. WITH YOUR PERMISSION, MR. CHAIRMAN, I WOULD LIKE TO ENTER THEIR RESPONSES IN THE RECORD, SO THAT THEY MIGHT BECOME A PART OF THE RATIFICATION RECORD AVAILABLE TO ALL SENATORS AS THEY CONSIDER THE INF TREATY.

THE COMMITTEE HAS CREATED A SUBSTANTIAL HEARING RECORD, BOTH IN OPEN AND CLOSED SESSION, ON THE MEANING AND INTENT OF CERTAIN TREATY PROVISIONS THAT RAISE QUESTIONS ABOUT THEIR POTENTIAL EFFECTS ON THE RIGHTS AND OBLIGATIONS OF THE TWO PARTIES. IN SOME CASES, FURTHER QUESTIONS WERE RAISED BY THE ARTICLE-BY-ARTICLE ANALYSIS OF THE TREATY AND BY RESPONSES OF ADMINISTRATION WITNESSES SEEKING TO CLARIFY ARTICLES OF INTEREST TO THE COMMITTEE.

AS A RESULT, I AND OTHER MEMBERS OF THE ARMED SERVICES COMMITTEE HAVE TURNED TO THE NEGOTIATING RECORD TO SEEK CLARIFICATION OF THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE FOLLOWING SPECIFIC PROVISIONS:

--TO HELP UNDERSTAND THE MEANING OF THE CLAUSE "OUTWARDLY SIMILAR BUT NOT INTERCHANGEABLE WITH" AS IT IS USED IN ARTICLE VI, PARAGRAPH 2 OF THE TREATY TEXT;

--TO CLARIFY THE ISSUE OF "FUTURE OBLIGATIONS" THAT ARISES IN THE ARTICLE-BY-ARTICLE ANALYSIS OF ARTICLE XIV;

--TO ANSWER VERIFICATION QUESTIONS RAISED DURING OUR HEARINGS REGARDING OUR INSPECTION RIGHTS AND ABILITY TO MONITOR THE PRODUCTION OF TREATY RELATED SYSTEMS AT THE VOTKINSK MACHINE BUILDING PLANT AS CONTAINED IN SECTION IX, PARAGRAPH 14 OF THE INSPECTION PROTOCOL;

--TO ANSWER QUESTIONS THAT AROSE IN OUR HEARINGS REGARDING FLIGHT TESTING OF GROUND LAUNCHED CRUISE MISSILES AS CONTAINED IN ARTICLE VII, PARAGRAPH 4 OF THE TREATY;

--TO CLARIFY THE FLIGHT TESTING DEFINITION WITH REGARD TO THE MAXIMUM RANGE CAPABILITY OF GROUND LAUNCHED BALLISTIC MISSILES (GLBMs) UNDER ARTICLE VII, PARA. 4;

--TO DETERMINE WHAT IS MEANT BY CANCELLING AN INSPECTION DUE TO CONDITIONS OF FORCE MAJEURE UNDER SECTION X OF THE ELIMINATION PROTOCOL;

--TO ANSWER QUESTIONS REGARDING THE DESTRUCTION OF SS-20'S IN THEIR CANNISTERS AS OPPOSED TO ELIMINATING THE MISSILE SEPARATE FROM THE CANNISTER UNDER SECTION II., PARA. 10 OF THE ELIMINATION PROTOCOL;

--TO DETERMINE THE REASONS FOR NOT REQUIRING THE SOVIETS TO DECLARE UNDER SECTION V, PARA (B), OF THE MEMORANDUM OF UNDERSTANDING (MOU), THE PRODUCTION FACILITY FOR THEIR GROUND LAUNCHED CRUISE MISSILE, WHICH HAS AN IDENTICAL OR NEAR IDENTICAL SEA-LAUNCHED VARIANT; AND, FINALLY, MR. CHAIRMAN,

--TO ESTABLISH AND FULLY UNDERSTAND WHY CERTAIN PROVISIONS, SUCH AS "ANY WHERE, ANY TIME" SUSPECT SITE INSPECTIONS, WHICH ARE IMPORTANT FOR AN EFFECTIVELY VERIFIABLE START AGREEMENT, WERE EXCLUDED FROM THE INF TREATY.

IN MANY CASES, MR. CHAIRMAN, THE NEGOTIATING RECORD, IN COMBINATION WITH THE TESTIMONY OF ADMINISTRATION WITNESSES IN CLOSED SESSION, HAS CLARIFIED OUR RIGHTS AND OBLIGATIONS UNDER THE TREATY. REGRETTABLY, HOWEVER, I MUST CONCLUDE AT THIS POINT THAT THERE REMAIN POSSIBLE DISCREPANCIES BETWEEN INFORMATION CONTAINED IN THE NEGOTIATING RECORD, AND THAT PROVIDED AS PART OF THE RATIFICATION RECORD, SUCH AS THE ARTICLE-BY-ARTICLE ANALYSIS. THESE ISSUES MUST BE RESOLVED AS PART OF THE RATIFICATION PROCESS, AND I URGE THE FOREIGN RELATIONS COMMITTEE TO ADDRESS EACH OF THEM.

APART FROM THESE ISSUES, MR. CHAIRMAN, THE RECORD OF THE ARMED SERVICES COMMITTEE HEARINGS SUGGESTS STRONGLY THAT THE INF TREATY IS, ON BALANCE, IN THE NATIONAL SECURITY INTEREST OF THE

UNITED STATES AND OUR ALLIES. AS THE RATIFICATION PROCESS CONTINUES, IT IS OUR DUTY TO POINT OUT CLEARLY NOT ONLY WHAT THE TREATY ACCOMPLISHES, BUT ALSO WHAT CHALLENGES REMAIN. TO THAT END, I WOULD POINT OUT THE FOLLOWING:

FIRST, THE INF TREATY LESSENS, BUT DOES NOT REMOVE, THE THREAT OF ATTACK TO NATO TARGETS, WHICH CAN AND NO DOUBT WILL BE COVERED BY SOVIET STRATEGIC SYSTEMS (SUCH AS THE SS-25, OR SUBMARINE LAUNCHED BALLISTIC MISSILES) WHICH HAVE ALREADY BEEN TESTED TO THEATER RANGES, OR BY FUTURE SYSTEMS THAT ARE NOT COVERED BY INF TREATY DEFINITIONS.

SECOND, WHILE THE MONITORING PROVISIONS CONTAINED IN THE INF TREATY ARE UNPRECEDENTED, THEY WILL REQUIRE UNPRECEDENTED COOPERATION IN ORDER TO PRESERVE THE SPIRIT OF THE AGREEMENT. THE TREATY REPRESENTS A SIGNIFICANT CHALLENGE FOR THE RISK REDUCTION CENTERS, WHICH WILL BE A FOCAL POINT FOR SUCH COOPERATION. INDEED, I BELIEVE WE CAN LOOK TO THE EFFECTIVENESS OF THESE CENTERS AS A BAROMETER OF WHETHER THE SOVIETS ARE TRULY INTERESTED IN ARMS CONTROL COMPLIANCE THAT ADHERES BOTH TO THE LETTER AND THE SPIRIT OF THIS AND FUTURE AGREEMENTS.

THIRD, IN THE TESTIMONY PROVIDED TO THE COMMITTEE, I HAVE NOTED THAT MUCH ATTENTION HAS BEEN PAID TO OUR ABILITY TO MONITOR MILITARILY SIGNIFICANT VIOLATIONS. I AGREE THAT SUCH CONSIDERATIONS ARE CENTRAL TO WHETHER THIS TREATY IS IN OUR NATIONAL SECURITY INTEREST. AT THE SAME TIME, I WOULD OBJECT STRONGLY IF THIS VERY PROPER FOCUS ON MILITARILY SIGNIFICANT VIOLATIONS WERE INTERPRETED AS A LACK OF CONCERN OVER VIOLATIONS THAT DO NOT MEET THIS CRITERIA. IT MUST BE CLEAR TO ALL THAT WE WILL NOT TOLERATE VIOLATIONS IRRESPECTIVE OF THEIR MILITARY SIGNIFICANCE.

FINALLY, MR. CHAIRMAN, IT IS MY JUDGMENT, ARRIVED AT THROUGH

PARTICIPATION IN THE HEARINGS OF BOTH THE ARMED SERVICES COMMITTEE AND THE SELECT COMMITTEE ON INTELLIGENCE, THAT THE MONITORING PROVISIONS IN THE INF TREATY, WHILE A VALUABLE PRECEDENT, WILL HAVE TO BE EXPANDED TO MONITOR A START AGREEMENT EFFECTIVELY. MOREOVER MR. CHAIRMAN, THE ELIMINATION OF IMPORTANT MILITARY CAPABILITIES SOLELY TO FACILITATE VERIFICATION SHOULD BE RESISTED.

MR. CHAIRMAN, I HAD THE VERY GREAT PRIVILEGE TO JOIN WITH YOU AND SENATOR NUNN IN VISITING NATO CAPITALS DURING THE FEBRUARY RECESS. THAT TRIP, AND THE TESTIMONY WHICH THE ARMED SERVICES COMMITTEE HAS RECEIVED, UNDERSCORE FOR ME THE DIRECTION OF THE ROAD THAT LIES AHEAD OF US. THE SIGN POSTS AHEAD ARE CLEAR, AND INCLUDE THE FOLLOWING:

-- THE INF TREATY REPRESENTS A TRIUMPH FOR ALLIANCE COHESION AND SOLIDARITY, AND INDEED IS A GREAT TRIBUTE TO PRESIDENT REAGAN AND THE NATO LEADERS WHOSE STEADFAST SUPPORT, OFTEN AT GREAT POLITICAL RISK, BROUGHT THE SOVIETS TO THE BARGAINING TABLE. WE NEED TO CONTINUE TO NOURISH THAT COHESION AND SOLIDARITY, FOR OUR ADVERSARY NOW HAS A FORMIDABLE LEADER, WHOSE DESIGNS FOR EUROPE ARE INIMICAL TO OUR INTERESTS, AND THAT OF OUR NATO ALLIES.

-- FOR THE FORSEEABLE FUTURE, OUR SECURITY, AND THAT OF OUR NATO ALLIES, WILL CONTINUE TO DEPEND ON THE STRATEGY OF FLEXIBLE RESPONSE, AND ON THE NATO TRIAD OF CONVENTIONAL, THEATER NUCLEAR, AND STRATEGIC NUCLEAR FORCES THAT MAKES THAT STRATEGY CREDIBLE. IT WILL BE INCUMBENT ON THE CONTINUING STRONG POLITICAL LEADERSHIP OF OUR NATO ALLIES TO MAINTAIN THE SUPPORT OF THEIR PUBLICS FOR MODERN AND EFFECTIVE CONVENTIONAL AND THEATER NUCLEAR FORCES, WHILE WE SEEK TO REDRESS THE SIGNIFICANT IMBALANCES IN CONVENTIONAL AND CHEMICAL WEAPONS THROUGH ARMS CONTROL.

-- THERE IS A CLEAR NEED TO CONTINUE THE ONGOING MODERNIZATION PROCESS TO WHICH NATO REMAINS COMMITTED. THESE ARE NOT NEW

REQUIREMENTS THAT RESULT FROM THE INF TREATY, ALTHOUGH THE TREATY GIVES THEM AN INCREASED URGENCY AND IMPORTANCE. RATHER THEY DERIVE FROM THE MONTEBELLO DECISION, WITH ITS EMPHASIS ON SURVIVABLE AND EFFECTIVE FORCES. WE MUST STAY THE COURSE OF ONGOING PROGRAMS, AND, IN CONSULTATION WITH OUR ALLIES, PROCEED SWIFTLY WITH THE DEFINITION OF FUTURE SYSTEMS.

THANK YOU, MR. CHAIRMAN.

PREPARED STATEMENT OF WOMEN STRIKE FOR PEACE

Women Strike for Peace calls on all Members of the United States Senate to ratify the INF Treaty expeditiously and without crippling amendments.

We sent this message as an "Urgent Appeal" in petition form to our members and friends throughout the country. It has evoked tremendous support. Americans, concerned about the ever-present danger to survival from an escalating arms race, are grateful for a step toward reducing the nuclear threat and improving relations between the United States and the Soviet Union.

We fully support the INF Treaty as negotiated, since it abolishes two whole categories of destabilizing weapons with ranges from 300 to 3500 miles in Europe and Asia and establishes unprecedented verification procedures. Thus it advances the stability and security interests of the United States, the Soviet Union and Europe.

We are opposed to any amendments which would delay or obstruct the final passage of the INF Treaty. We urge you to refrain from using the INF ratification process as a vehicle for amendments addressing other arms control issues, or raising constitutional questions to preserve the treaty-making principle. Such amendments, no matter how well-intentioned, would risk expeditious Senate approval of the INF Treaty.

We view the INF agreement as an important first step toward a continuing arms control process, not as a one-time accomplishment. The momentum for nuclear arms reductions must continue.

The INF Treaty should not be circumvented by developing or modernizing other nuclear weapons to take the place of the medium-range and short-range missiles eliminated by the Treaty. It defeats all logic to reduce one nuclear threat by increasing another. At the same time, we reject the position of those who insist on the need to increase conventional weapons to "compensate" for the removal of U.S. missiles from Europe and for "righting the imbalance" in conventional military forces.

The recent report "Beyond the Bean Count: Realistically Assessing the Conventional Military Balance," released by Sen. Carl Levin, Chairman of the Senate Armed Services Sub-Committee on Conventional Forces and Alliance Defense, makes clear that the simple numerical comparisons of WARSAW PACT and NATO forces in Europe present a misleading picture. In fact, according to the report both sides were assessed as being roughly equal in the number of troops under arms and command and control gear, while also being unequal in a number of other areas.

The INF agreement has created a new atmosphere of hope and widespread public support, especially in Europe, for conventional and tactical nuclear weapons reduction, and other measures which would ease tensions between East and West. A wealth of recent statements by Soviet leaders, including General Secretary Gorbachev, in support of these goals, present a challenge and opportunity for the United States to make such achievements possible.

After ratifying the INF Treaty, we urge you to continue the momentum toward arms control made possible by the Reagan-Gorbachev initiative. We urge you to support deep reductions in strategic arms through START negotiations and to prevent a new arms race in space by continuing to adhere to the original ABM Treaty.

The nations of the world spent nearly \$900 billion on weapons in 1987. This sum breaks down to \$1.7 million a minute, according to Ruth Sivard, former chief of the Economic Division of ACDA. Together, the U.S. and the USSR, with less than 11% of the world's population, account for 23% of the world's armed forces, 60% of the military expenditures and 97% of all nuclear weapons. At the same time, because of the world's skewed priorities, 120,000 children die unnecessarily every 3 days from hunger, disease and warfare.

Congress could play a vital role in assuring that these priorities are reversed.

LETTER FROM EDWARD F. SNYDER

February 22, 1988

Senator Claiborne Pell
Chairman
Foreign Relations Committee
United States Senate
Washington, DC 20510

Dear Senator Pell:

We write to express our strong support for Senate approval of the U.S.-Soviet Treaty on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (INF). While we do not and cannot speak for all Friends, we believe it is fair to say that this Treaty meets with near-universal acclaim among Friends, and that there is appreciation for those in the United States, the Soviet Union, and NATO countries who were responsible for bringing it to fruition.

This historic treaty breaks new ground in at least four areas:

* It requires the most far-reaching U.S.-Soviet arms reductions since the end of World War II. By eliminating an entire class of nuclear arms rather than merely controlling the upward spiral of the arms race, it sets a profoundly new and positive direction for future U.S.-Soviet arms negotiations.

* To ensure compliance, it provides unprecedented verification procedures which permit U.S. and Soviet inspectors on the ground in the other country at key observation points for thirteen years in the future, as well as reciprocal short-notice challenge inspections, and other verification techniques.

* It gives great impetus to progress on other arms reduction negotiations--on strategic and space weapons, on chemical weapons worldwide, and on reducing conventional and tactical nuclear weapons in Europe.

* It establishes, in a most convincing manner through the actions of President Ronald Reagan and General Secretary Mikhail Gorbachev, that these popular leaders believe they can help assure their nations' security through mutually agreed upon arms reductions rather than through an unrelieved, ever-expanding, and hugely expensive arms build-up.

Lessons to be Learned

Because the INF Treaty carries so many lessons for the future, we believe it is important to comment on some of the views of Administration witnesses in these hearings.

Secretary of State George Shultz identified as a crucial factor in negotiating an INF Treaty NATO's cohesion in pursuing its dual track, negotiate and deploy, strategy. "The treaty shows the importance of negotiating from strength and of being patient, determined, and purposeful at the bargaining table." Soviet representatives might echo this view, arguing that it was only the deployment of their SS-20s that forced NATO to offer its dual track, zero-zero option proposal.

Such views seem to take a partial and simplistic view of events in this historic period. They overlook a number of other factors:

* In the early 1980s, there was a growing acceptance by leaders in Washington and Moscow of the fact that there are no winners in a nuclear war and that one should never be fought. This helped immeasurably to create the political will to reach agreement. This political will was powerfully buttressed by an apprehensive public in the United States and Europe. Frightened by the accelerating arms race and by the bellicose talk of leaders, people took to the streets demanding that U.S.-Soviet arms talks begin and that agreements be reached.

* This view also overlooks the economic pressures being felt by leaders in Washington and Moscow in this period. The United States was moving from being the world's largest creditor nation to being the world's largest debtor nation, as massive annual budget deficits and trade imbalances accumulated. Congress, and then the Reagan administration, recognized the finite nature of resources which could be allocated to the search for security through arms.

In the Soviet Union, the picture was far more serious and pressing. The decades-long priority to the military establishment had impoverished the entire non-military sector and encouraged rigid, compartmentalized thinking and bureaucracies. Technologically, in the civilian sector the Soviet Union lagged far behind the United States, Western Europe, and Japan.

* But perhaps the most significant element of all, seldom acknowledged in Administration testimony, was the change in Soviet leadership in 1985 which brought Mikhail Gorbachev to power with a different concept of national security. In the new Soviet view of security, the number of bombs is not as important as the country's economic and political strength, and this could not be achieved while the Soviet Union was squandering resources on military technology and outmoded institutions in need of restructuring. This new way of thinking about national security is the only reasonable explanation for the

many Soviet concessions which were made in negotiations on the INF Treaty--concessions to "de-link" INF from strategic weapons talks, to leave out British and French nuclear weapons, to include shorter-range Soviet weapons though the U.S. had none, and to submit to unprecedented on-site inspections. Certainly, U.S. weapons superiority and NATO cohesion in the past had met only unyielding Soviet resistance under different Soviet leadership. It is also important to recall that these concessions came after the Reagan military buildup and SDI spending had leveled off, not while it was going up.

Is Deterrence the Answer?

Secretary Shultz notes in his testimony on the INF Treaty that "maintaining an effective deterrent is the key to a successful national security policy." But more and more questions are being raised about deterrence from a moral, political, and psychological perspective. The fear which it must necessarily engender in Soviet leaders and the American public is a dangerous tool, given fallibility and volatility of leaders and people. The concept of keeping the peace, in the final analysis, by threatening to kill millions of people in other countries--hostage-taking on a stupendous scale--is morally repugnant. President Reagan sought to escape this terrible dilemma, in part, by throwing his full weight behind the search for a perfect defense against nuclear attack through the Strategic Defense Initiative. We believe that search is misguided and a waste of billions of dollars which could be better spent on urgent human needs at home and abroad. The search for security through technology and more weapons is a seductive illusion which is bound to fail and lead ultimately to a new, more dangerous, more expensive phase of an unending arms race.

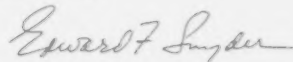
The real hope for future national and world security lies in the direction pointed by the INF Treaty. President Reagan, Secretary Shultz, and the Geneva negotiators are to be commended for their initiative in bringing this effort to a successful conclusion. They should be encouraged to press forward toward further agreements on a 50% cut in strategic arms, a chemical weapons ban, and conventional and tactical arms reductions in Europe.

No course is without risk. But the international negotiating efforts now under way for far-reaching arms reductions under effective international inspection and control, coupled with a growing recognition of our mutual vulnerability and interdependence, offer the best hope for the future.

Risks taken on this path are risks taken in the cause of life. They offer a better future for our children and grandchildren than risks the nations now run daily, goaded by fear and suspicion, into squandering their substance on the weapons of war, always on the brink of ultimate catastrophe.

We urge members of the Senate to endorse the INF Treaty strongly as a major step along the road toward the still-distant goal of general and complete disarmament under strict and effective international control, accompanied by the establishment of reliable procedures for the peaceful settlement of disputes. That is the goal agreed to by the United States and the Soviet Union in the historic 1961 McCloy-Zorin agreement, which was affirmed by the United Nations, December 20, 1961.

Sincerely,



Edward F. Snyder

RESPONSES OF DAVID F. FORTE TO QUESTIONS ASKED
BY SENATOR HELMS

QUESTION: What would constitute a material breach of the INF Treaty by the Soviet Union and what legal and effective response could the United States utilize?

ANSWER: There are three possible situations by which the United States could suspend its obligations, in whole or in part, under the INF Treaty.

The first would occur under Article XV if the United States decided that "extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests". Withdrawal can then be effected by a six months notice. This clause is a classic unilateral withdrawal provision. All the United States need do is to decide for any national security reason whatsoever that intermediate nuclear weapons need to be remanufactured and emplaced.

The unilateral withdrawal option should be distinguished from an American response to a material breach of the treaty by the Soviet Union. In that situation, international law permits us to take immediate responsive action. No waiting period is required. I am, therefore, extremely disturbed by at least one Administration statement to me that should the Soviet Union materially breach the Treaty, the United States would have to wait six months before it could respond. Perhaps the speaker believed that the phrase "related to the subject matter of the treaty" limited the reasons by which the United States could withdraw as well as requiring a six months delay before we could respond to a material breach. Not only does that position contradict traditional international law practice regarding denunciation clauses, as well as the right to respond immediately to a material breach, it leaves the impression that the Administration has no thought-out manner of enforcing our rights under the treaty except by trusting the other side.

The second possible situation would be a material breach by the Soviet Union necessitating an immediate and proportionate response. As I have noted above, a legal response to a material breach can be immediate. No six months waiting period is required. What kind of breaches would be material? Obviously, maintaining or manufacturing prohibited missiles would be material. Nonetheless, we have had little indication from the Administration of other actions that might be interpreted as a material breach.

In my opinion, the United States Senate should consider articulating a series of non-inclusive events that would constitute a material breach. Such events would include:

- a) testing or other activities in contravention of the treaty;
- b) interference with verification procedures;
- c) discovery of extant intermediate missiles after the time allotted for elimination;
- d) mobilization of Soviet conventional forces in Europe.

The last of these events is most critical. Since the purpose of the treaty is to lessen the threat of war in the European theatre, any mobilization that takes advantage of our reduced nuclear deterrent would strike at the very basis of the treaty. I might add that such an explicit warning would put the Soviet Union on notice and reassure our allies at the same time.

The third action by the Soviet Union permitting a legal response would be their misleading the United States in the Memorandum of Understanding as to the number of SS-20's they possess and their location. That act would be fraud and under customary international law as well as the Vienna Convention Treaties, the United States would be entitled to void the treaty altogether. A treaty is similarly voidable if an

essential set of facts was assumed to be true at the time the treaty was concluded but turned out not to be true.

In sum, I believe it would be wise if the Senate articulated a set of understandings that:

- 1) Article XV permits unilateral denunciation by any reason relating to the defense of the United States or its allies.
- 2) Material breaches will include Soviet conventional mobilization in Europe, and can be responded to immediately.
- 3) The Treaty should be declared void as soon as evidence of fraud or material error is uncovered.

I turn now to what responses the United States has should the Soviet Union violate the treaty. There is one obvious response: reintroduction of intermediate nuclear weapons in Europe. Yet most commentators - and apparently the Administration - believe that replacing intermediate nuclear weapons in Europe will be politically and technically impossible. The Europeans, we are told, will never go through the political turmoil once more to grant basing privileges. Once the Pershing II missiles are destroyed, producing new ones will take too long to be effective.

Nonetheless, I believe an effective response can be mounted if the administration and the Congress take preparatory action now. First, as we negotiate with our allies for the withdrawal or destruction of our missiles and the visits of Soviet inspectors, we should come to an agreement with them now to permit rebasing of the missiles in the event of a Soviet breach. The Europeans will, in my opinion, be prepared to agree to this now as part of disarmament process. Two years from now will be too late.

Second, since all types of cruise missiles are similar and differ mainly by their launching platforms, we should have a production line equipped and ready to go to manufacture

ground launchers should the Soviets cheat. We would then be able to reinsert a deterrent in Western Europe on very short notice.

I am truly surprised to learn that the Administration is apparently considering neither of these options. We are leaving ourselves with no alternatives except mere trust of the opposing party.

QUESTION: Article XVI envisages further amendments to the Treaty, and Article XIII permits the Special Verification Commission to "agree upon such measures as may be necessary to improve the viability and effectiveness of this Treaty." What role would the Senate have if changes in the treaty occurred under either article?

ANSWER: Article XVI contemplates that amendments to the Treaty must accord with the procedures in Article XVII. Article XVII, in turn, requires that the Treaty and protocols "shall be subject to ratification in accordance with the constitutional procedures of each Party." I read Article XVI, therefore, as requiring Senate approval of all Amendments to the Treaty. I have been told that the Administration has confirmed this interpretation on the record. If that be so, then a clarifying amendment would not seem to be necessary.

However, Article XIII(a) and XIII(b) have a different bite. XIII(a) sets up a Special Verification Commission as a framework for airing complaints. If the complaints are of a technical sort, then the Special Verification Commission may well be functional. But if the violations are material, we can expect the Commission (as with all Communist compliance commissions) to delay and obfuscate thus preventing a prompt and effective U.S. response. The Soviets see such commissions not as enforcement mechanisms but as buffers for themselves.

Under Article XIII(b), the Commission may adopt new

"measures." This article is clearly a grant of power to the executive to make executive agreements. Executive agreements are based either upon the inherent executive power or on powers granted by statute or Treaty. A higher officer of the Legal Adviser's office confirmed to me that Article XIII(b) permits executive agreements. Should the Senate not find this provision acceptable, the only method of changing it would be by amendment. The Soviet Union of course, would have no standing to object to the internal method by which the United States decides to approve changes to the Treaty.

QUESTION: Do you believe that administration interpretations of the Treaty, heard during the advise and consent process, will bind the Soviet Union if the Soviets do not object in a timely fashion?

ANSWER: I do not know of any instance where acquiescence by silence has been held to constitute a binding acceptance of the other party's interpretation of treaty during its approval stages. The Restatement (2d) of the Foreign Relations Law permitted such unilateral declarations to be non-binding evidence of interpretation but no more. The draft Restatement 3d's section on treaty interpretation is weaker and does not mention unilateral declaration even as an aid to interpretation.

In my opinion, it is possible to fashion an argument to support the proposition put forward in the inquiry. There are many cases, such as The Right of Passage over Indian Territory (ICJ, 1960) and The Island of Palmas (Permanent Ct. of Arbitration, 1928) where acquiescence by one state was interpreted to bind it to observe another state's claims. In addition, statements by foreign ministers are seen as admissions by the state itself (Eastern Greenland Case, Permanent Court of Int'l Justice, 1933). Finally, states must

respect another state's internal ratification procedures that are "a rule of internal law of fundamental importance" (Vienna Conv. on Treaties, Art.46). The Senate's advise and consent role is universally regarded as such a fundamental internal law.

You can see that a combination of these precedents could be argued as a basis for asserting that our Administration's statements of interpretation before the Senate are binding on the Soviet Union if the Soviets do not object. But we do not have to rely on such speculation.

If the Senate believes that certain reassurances and interpretations by Administration spokesmen are critical to the Treaty, the Senate should collect them in a set of understandings and attach them to the Treaty. The President would then be obliged to submit them as part of the Treaty.

QUESTION: Under Article IV, Section 3, clause 2 of the U.S. Constitution, do you believe that United States property, including these weapons systems, can be destroyed without authorization from the full Congress?

ANSWER: In *Edwards v. Carter*, 580 F.2d 1055 (1978), the U.S. Court of Appeals for the District of Columbia held that the transfer of the Panama Canal to Panama under the Panama Canal Treaty was a constitutional exercise of the Treaty power. The Court opined that the property clause did not limit the power of the President to transfer property by means of a self-executing treaty. Strictly speaking, that decision is binding only in the federal courts in the District of Columbia Circuit. It is the only recent Court statement on the issue.

In my opinion, the dissent by Judge MacKinnon in the case is far more persuasive than the *per curiam* majority.

I believe Judge MacKinnon demonstrates that the property clause of the Constitution precludes the United States from concluding self-executing treaties disposing of property owned

by the United States. If anything, non-self-executing treaties are the normal practice for the United States. It is not revolutionary to apply that principle to cases involving United States owned property.

But there is an easier solution to the problem than rearguing a proposition of constitutional law. All the Senate need do is to amend the Treaty to require full Congressional approval of the disposition of the missiles and support facilities under this Treaty. I am sure the House of Representatives would be grateful for the solicitude of its sister chamber. Here again the Soviet Union would have no standing to object to what internal procedures we adopt to execute the treaty. Those procedures are independent of our international obligation to fulfill the terms of the Treaty once it is approved and ratified.

QUESTION: In view of the testimony of Ambassador Glitman on March 17, are you satisfied that Article XIV of the Treaty will not be a bar to future cooperation between us and our allies?

ANSWER: In some ways, I was reassured by Ambassador Glitman's revelation of the negotiating record. On the other hand, I recall the fanfare associated with the Russian "concession" that the European deterrent was not to be covered by the Treaty. Ambassador Glitman revealed that the Soviets had indeed attempted by means of Article XIV to constrain that deterrent after all. None of us would have found out that fact had Senator Helms not insisted on a full explanation of the meaning of that text.

It is clear, therefore, that a primary Soviet objective in the Treaty was to separate us from our allies' nuclear deterrent in Europe. In light of that, the question remains whether our negotiators succeeded in their laudable quest to

change Article XIV's language into a mere reiteration of a standard pacta sunt servanda declaration.

The Administration asserted in its March 17 testimony that the word "undertakings" in Article XIV means, in Russian, a formal governmental act, such as a treaty or an act of Congress. I think it would be useful to the Senate to know whether the translation of the Russian word for "undertakings" comports with the Administration's version.

Beyond that, however, I noted in my testimony that any "act" of Congress transferring delivery technology to our allies would seem to be prohibited even by the meaning of "undertakings" currently embraced by the Administration. If I could have noticed that problem within five minutes of hearing the Administration's interpretation, I wonder what an intelligent Soviet lawyer could do in six months.

Ambassador Glitman asserted that Foreign Minister Shevardnadze has recently conceded that such transfer of technology would not be prohibited by the terms of the Treaty. For my part, I found the Soviet foreign minister's declaration more ambiguous than that.

More to the point, I was subsequently informed by an Administration official that the Treaty would not prohibit the transfer to our allies of all the technology, material, and equipment for producing intermediate launchers. Once again, there is an easy solution to this problem. Since GLCM's constitute an excellent launcher for conventional as well as nuclear warheads, Congress can immediately authorize the transfer of all requisite technology for their manufacture to our nuclear and non-nuclear allies, dependent on their acceptance. We can even transfer the technology for Pershing II missiles to Great Britain.

If the interpretation of Article XIV is as the Administration says it is, we can expect no objection from

either the Administration or the Soviet Union. Such legislation would be another sign of our concern for the alliance and would give the Europeans an additional mechanism by which they can contribute to their own defense.

QUESTION: In your testimony, you have suggested that a number of amendments, understandings, and declarations be adopted by the Senate. Won't your proposals constitute a set of "killer amendments" feared by proponents of the Treaty?

ANSWER: On the contrary, I regard the suggested additions to be saving amendments, not killer amendments. The phrase "killer amendments" has been used as something of a scare. Those of us who suggest refinements do so out of respect for the work of those who have brought forward this treaty. We have no hidden agenda.

Clarifications are vital because of the Soviet record in treaty compliance - or lack of treaty compliance - and their need for ambiguity. In my experience, I have found that the Soviet Union desires ambiguity because of their view of international law. They do not believe in the existence of generic principles of international law. Rather, being good Marxists, they regard law as an act of the will of the state. The state is not subject to the rule of law. It creates law as a means of coercion. The only law that the Soviet state accepts is that law that the Soviet state has agreed to. Consequently, ambiguous treaty provisions permit the Soviet state to act as it wishes, since one can point to no specific provision or definition the USSR has agreed to be bound by.

We who believe in the rule of law believe in good faith observance of treaties and contracts. The Soviet Union has a different view. To make vague provisions clear, and ambivalent phrases unambiguous is to place the Soviet Union under the law as they see it to be. We must understand that they do not see legal phrases in the same way that we do. And we must act in the knowledge of how they view law.

PREPARED STATEMENT OF DAVID B. THOMSON

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I. PERSPECTIVE

The "Treaty Between the United States of America and the Union of Soviet Socialist Republic on the Elimination of their Intermediate-Range and Shorter-Range Missiles" (INF Treaty) signed in December, 1987, appears to have the potential for being one of the most important steps in arms control since the development of nuclear weapons and the end of World War II.

Early attempts at nuclear arms control (the Baruch proposals, 1946, etc.) failed because of the complete refusal of the U.S.S.R. with its closed society to agree to adequate verification and on-site inspection and because of the advent of the cold war.

The Limited Test Ban Treaty of 1963 eliminated atmospheric testing of nuclear devices by the two super powers resulting in a reduction of orders of magnitude in nuclear fallout and paving the way for the Nuclear Non-proliferation Treaty in 1968, very substantially slowing the spread of nuclear weapons to other nations.

Since the 1970's the SALT I and SALT II Treaties (and related agreements) have served to limit the total number of delivery vehicles (missiles, bombers, etc.) of nuclear weapons of strategic (intercontinental) range deployed by the U.S. and U.S.S.R. and to limit the deployment of ABM forces. The SALT agreements depended on National Technical Means (NTM) for verification, thereby limiting their scope and effectiveness.

The INF Treaty as signed in December should accomplish the first major reduction in the total numbers of deployed nuclear weapons and introduces for the first time virtually unprecedented on-site inspection.

II. The INF Treaty

The INF Treaty provides for the elimination of all Soviet and U.S. missile systems in the range of 300 to 3400 miles and for the elimination or conversion of facilities related to these missile systems within 3 years after the treaty goes into effect. After elimination is completed, the treaty will ban all facilities for deployment, storage, and production of these missiles. The Treaty provides for the most stringent verification provisions in the history of nuclear arms control, including comprehensive and ongoing on-site inspections.

Table 1 shows the total number of INF missiles and warheads to be destroyed under the INF Treaty.

Based on a critical examination of the Treaty, the Protocols, and the Memorandum of Understanding (MOU), and based on our previous studies of the general arms control issues involved, we offer the following analysis of some of the major characteristics of the treaty.

We list these characteristics as: (a) role in U.S./U.S.S.R. relations; (b) elimination of the most dangerous missiles; (c) status of NATO with the INF Treaty; (d) verification. In Section III we discuss some of the history of arms control treaty compliance. In Section IV we discuss the relation of the INF Treaty to the negotiations towards a Strategic Arms Reductions Treaty (START).

A. U.S./U.S.S.R. Relations.

After a period of hopeful progress during the negotiation of the

SALT agreements, U.S. and U.S.S.R. relations were aggravated by Soviet aggressions in other parts of the world, e.g., Afghanistan. More recently, three successive summit meetings between the leaders of the two nations have rapidly narrowed the stated differences on several key issues and have resulted in the successful negotiation and signing of the INF Treaty in December, 1987. It appears obvious that ratification of this treaty by the U.S. Senate and successful implementation of its provisions not only is essential to continued progress in the improvement of U.S./U.S.S.R. relations, but also lends promise to future progress.

Regardless of the policies or strategies of the two governments, the people of the U.S. and the U.S.S.R., and their respective allies, share in common the potentially devastating consequences of nuclear war. The INF Treaty may well represent the most important arms control step taken so far by the two superpowers towards the goal of reducing the likelihood of nuclear war.

B. Elimination of Most Dangerous Missiles.

The missiles covered by the INF treaty are of such range (up to 3,400 miles) as to place all the capitals of Western and Eastern Europe, as well as Moscow, at risk in the event of (a) a planned surprise attack, (b) the threat of a general war in Europe, or (c) a variety of scenarios that could lead to a war by miscalculation. Because of the very short (<18 minutes) flight times of the ballistic INF missiles, these weapons pose perhaps the greatest threat to cause devastating nuclear war through rapid escalation or miscalculation. The Soviet INF missiles certainly are very intimidating to the European NATO countries. The elimination of these INF missiles as the first step in a systematic nuclear arms reduction process is, therefore, particularly appropriate.

This treaty eliminates launchers for 3983 nuclear warheads (see Table 1). This represents 16% of the number of warheads in the combined strategic forces of the U.S.S.R. and U.S. (see Table 2). The treaty eliminates 22% of the total number of Soviet warheads on ballistic missiles of INF and ICBM range (Table 1 and Table 2).

C. The Status of NATO.

Table 3 shows the estimated nuclear forces remaining in Europe after the reduction specified by the INF treaty. The two numbers for artillery are for guns that could theoretically launch nuclear warheads. We do not know how many are involved. Artillery is very short range and its role in war is different from that of longer-range missiles. Not counting artillery, the ratio is 4307/2708 in warheads in favor of the Warsaw Pact. Nevertheless, about 5408 nuclear weapons remain available to NATO for use in Europe.

Table 4 shows the approximate balance of conventional forces in Europe between NATO and the Warsaw Pact (WP) as best we know it. The numbers will change somewhat if we consider different areas, such as considering the NATO guidelines area or the global NATO and Warsaw Pact forces. Note that the forces are about equal in number of men. In ground combat equipment the Warsaw Pact is well ahead. However, the quality of equipment or training and morale of the soldiers are not taken into account. We believe that in a war in Europe the Pact would be the attacker and it is usually believed that the attacker needs an advantage of at least two to one in all conventional weapons to be successful. This suggests the need to establish equality of conventional force levels either by building up conventional forces of NATO or by establishing conventional forces reduction agreements which would be very complicated, we believe it was wise for the superpowers to start with the INF; it is simpler than a reduction agreement would be and it does not impair the security of the U.S. While we do not discount the possibility of a U.S.S.R. attack on western Europe, we believe it would be considered too costly by the aggressor [Reference: Jonathan Dean "Military Security in Europe" Foreign Affairs, Fall 1987].

D. Verification.

As noted, the INF Treaty provides for some of the most comprehensive verification agreements in the history of nuclear arms control. In this section we discuss several features or characteristics of the treaty as we understand them. These are (1) National Technical Means (NTM), (2) On-site inspection, (3) enhancement of national technical means, (4) inspection of the

elimination of missiles, (5) inspection of missile inventories, (6) continuous monitoring, (7) the Nuclear Risk Reduction Centers (NRCC), and (8) the Special Verification Commission (SVC).

1. National Technical Means (NTM).

National Technical Means refers to the ability of individual nations to monitor the military activities of other nations without ground level intrusion. The effectiveness of NTM has been greatly enhanced in recent years by various technological developments, including improved satellite photo reconnaissance [Ref. W. C. Potter, "Verification and Arms Control" Lexington Books, Lexington, MA., 1985]. NTM has been the principal, if not only, means of verification of such past treaties as the limited test ban treaty of 1963, Salt I, and Salt II. NTM was believed by the Senate Foreign Relations committee to be sufficiently accurate to verify the Salt II Treaty within the accuracy required by that treaty [Ref. "The Salt II Treaty," Report of the Committee on Foreign Relations, U.S. Senate, Nov. 15, 1979].

Effective NTM by the United States obviously depends on continued vigorous and enlightened use of proven NTM and should be improved by continued innovative research on new technical means of detection and verification.

The INF Treaty provides means of enhancing NTM through cooperative measures such as the removal upon request of missile covers of road-mobile long-range missiles for observation for short periods by satellites (Article XII).

2. On-Site Inspection.

The INF Treaty includes agreements, for the first time, of comprehensive provisions for the on-site inspection of deployments of nuclear weapons delivery systems within the territories of the U.S.S.R. These inspections will include:

(a) inspections of facilities to verify numbers in the data base, (b) inspections to verify elimination of specific missiles and the completion of the elimination of specific systems, (c) inspections of operating bases and support facilities (from 90 days to 13 years), and (d) continuous monitoring of portals of Ground Launch Ballistic Missiles (GLBM) assembly facilities (present or former; 30 days to 13 years) to verify inventories of INF systems.

3. Enhancement of National Technical Means (NTM).

The extensive on-site inspection procedures agreed to in the INF Treaty should make possible substantial increases in the effectiveness of NTM. For example, treaty provision Art. XI.5 provides for on-site inspection of any missile operating base or support facility within 9 hours of the request and specification of the site. The protocol provides for a thorough inspection. The presently deployed KH-11 observation satellites transmit their imaging data in real time in the form of digital radio pulses. If an object, or objects, are observed by the satellites with insufficient accuracy to determine whether they represent a treaty violation, a short time on-site inspection or inspections may be executed to determine what the satellite data was indicating. Such inspections should serve to help confirm the satellite observations and add greatly to the NTM value of the satellites and to the information needed for the specific case.

This is but one of several examples where on-site inspection will be able to combine with NTM to enhance our overall knowledge of weapons deployments by the USSR.

4. Inspection of Elimination of Missiles.

Article XI.4 of the treaty provides for the on-site inspection of the elimination of those missiles identified in the treaty. The inspection and elimination protocols provide detailed procedures for the on-site inspection teams at the specified sites. The procedures include submission of the elimination schedule by the inspectees, determination by the team that the object to be eliminated is really a missile of the specified type, and observation of the elimination procedure by the on-site inspection team. Identification and counting of the INF (or START) missiles being eliminated has been stated (e.g., at the INF hearings) to be less difficult than the determination of absolute numbers of allowed deployed missiles.

5. Inspection of Missile Inventories.

The provisions in Article XI, P.5 for inspections of missile operating bases and missile support facilities, backed up by the inspections protocol, appear to offer a comprehensive and reliable means of verification. With 20 inspections per year allowed for each of the first three years (followed by 15/yr. for 5 years, then 10/yr. for 5 years) we can verify that the previously observed eliminated missiles have not been replaced by others. By judiciously choosing inspection times and locations, in coordination with NTM evidence and intelligence information, we should be able to develop confidence that the number of undetected or unobserved deployed INF missiles is zero or at least a small number. The rules for conducting these inspections appear to be well thought out, for example, allowing up to ten members on the inspection team, allowing a variety of observing devices including sophisticated radiation detectors (the U.S. has a very strong capability with such detectors and the national labs will be developing new ones as the need arises), and providing for continuous communication between the inspection team and the Embassy. The procedures provide for good documentation of any ambiguities so that they may be resolved expeditiously.

It has been stated by many that our detection capability is sufficient to catch significant violations so that the potential violator will not risk an infraction, thus jeopardizing continuation of the treaty that is otherwise in his best interest. We feel that, even if this deterrent to violating the treaty were to fail (and we don't feel it should fail), the number of undetected INF missiles would be small compared to the overall nuclear force balances (see Tables I, II, and III).

6. Continuous Monitoring.

The treaty provides for the continuous monitoring of any facility in which the final stages of INF/GLBM's may be assembled or produced. The principal site for each nation has been named in the Memorandum of Understanding (MOU). Such continuous monitoring and on-site verification is unprecedented, adds to the confidence that we know total inventories, and provides new and useful mechanisms of communications between the parties.

7. Nuclear Risk Reduction Centers (NRRC).

Article XIII provides for the extensive use of the Nuclear Risk Reduction Centers (NRRC), one in each country, established by previous agreement (Sept. 1987). These permanently manned centers will facilitate communications between the parties, aid in the codification procedures of the results of inspections, and provide cohesion to our overall on-site inspection procedures. The establishment of NRRC facilities in each country offers an opportunity for developing on-site verification procedures that not only should enhance our confidence in the compliance with the INF Treaty, but should also help lay the ground work for the verification of future treaties.

8. Special Verification Commission (SVC).

Article XIII also creates the Special Verification Commission to provide a forum and mechanism to resolve compliance questions and to agree on measures to improve implementation of the treaty. The creation of the SVC offers an opportunity to resolve issues at the working level before they become diplomatic problems. It also offers the opportunity at the working level to develop administrative procedures to enhance verification of the treaty.

III. History of Nuclear Arms Control Treaty Compliance

There is a widespread impression among some U.S. citizens that the Soviets have a record of severe treaty violations. In evaluating the record of Soviet compliance with past arms control treaties, one must look at the overall result of having the treaty, as well as possible detailed violations of the letter of the treaty wording.

The Standing Consultative Commission (SCC) was created by Article XIII of the ABM Treaty, which stated that the U.S. and U.S.S.R. "shall promptly establish" such a commission to deal with questions of compliance, provide for exchange of information to aid verification, and deal with other matters affecting the implementation and effectiveness of the treaty. Both countries have brought charges of

violations before the SCC in almost equal number. The value of the SCC has been to show that most of the charges derive from ambiguities in the treaty and not overt attempts to violate the understood terms. It seems that both the U.S. and U.S.S.R. sometimes seek out opportunities to exploit loopholes or vague language in treaties when they need it ["Star Wars," R. M. Bowman, St. Martin's Press, NY, 1986]. At the same time, both have an excellent record of abiding by the letter of the treaty obligations as they interpret them. Both the U.S. and U.S.S.R. have destroyed old weapons in order to stay within SALT limits as new weapons have been deployed. At the same time, both have moved rapidly into deployment of weapons not covered by agreements. Conclusions as to treaty compliance, as given by several different sources, are listed below:

- A. An interagency group established by President Carter found no major instances of cheating. The group was composed of representatives of the Department of Defense, the Joint Chiefs of Staff, the State Department, the CIA, the Arms Control and Disarmament Agency, and the National Security Council.
- B. William Colby (CIA) presented similar conclusions in testimony before the Senate Armed Services Committee, October 16, 1979.
- C. Alexander Haig (as Secretary of State) so testified before the Senate Foreign Relations Committee, May 11, 1982.
- D. A working group from the Stanford University Center for International Security and Arms Control, after an 18 month review of the record, issued a 437 page report, "Compliance and the Future of Arms Control." It states that, rather than an overall pattern of violations on either side, most of the 40 charges leveled by the U.S. and the U.S.S.R. since 1984 involve areas of ambiguity in treaty provisions or uncertainty about the behavior of the parties--the treaty itself does not offer clear guidance to the correct interpretation (Bulletin of Atomic Scientists, Oct. 1987). The report further states that joint interpretation of the obligations entailed in treaty provisions is essential if agreements are to operate successfully. Such a process did exist in the 1970's through the Standing Consultative Commission and other diplomatic mechanisms. Since 1980 the essential process of dispute resolution has been stalemated. Forty compliance issues remain on the table today, not because cheating is rampant, but because the process of dispute resolution has broken down.

Because the large phased-array radar at Krasnoyarsk appears to be a violation, the Center's working group recommended that the Soviet Union should dismantle the radar or open the radar to periodic and extensive on-site inspection. The Soviets allowed one congressional visit to inspect and photograph it last year. It appears that another U.S. team primarily of technicians has been invited to visit the site and by this time may already have been there.

- E. In a January, 1987, Scientific American article, Sykes and Davis (geophysicists with outstanding credentials and experience) report on re-calculations of yields of all underground Soviet nuclear weapons tests by a newly revised method, and the results indicate that the yields of Soviet tests had previously been consistently overestimated. The reduced yields arrived at indicate that the record of Soviet underground tests has been in accordance with the Threshold Test Ban Treaty (TTBT) [see also Physics Today, August, 1987].

Overall, when one considers the history of the several nuclear arms control treaties and agreements of the past three decades, including the Antarctic Treaty (1959), the Hot-Line Agreement of 1963, the Limited Test Ban Treaty of 1963 (banning nuclear tests in the atmosphere), the Outer Space Treaty of 1967, the Non-proliferation Treaty of 1968, the ABM Treaty of 1972 (SALT I), the Threshold Test Ban Treaty (TTBT, unratified by U.S.) of 1974, and the SALT II Treaty of 1979 (unratified by the U.S.), the history of Soviet compliance with the overall qualitative goals and major deployment limitations has been relatively good. Given the need for progress in effective arms control, we feel that the compliance record is more than sufficient to warrant ratification of the INF. Furthermore, with the introduction of the principle of on-site inspection brought about by the INF Treaty, our ability to "measure" overall compliance with arms control treaties should be greatly improved.

IV. INFT and START

The successful negotiation, signing, and ratification of a Strategic Arms Reduction Treaty (START) is very much to be desired. Present deployments of ICBM ballistic missiles with nuclear warheads pose a particular threat to cause devastating nuclear war through rapid escalation of a conflict, or through miscalculation of one side's intentions by the other in a tense situation. The American and Soviet leaders have publicly expressed their concerns about these deployments and for more than a year the U.S. and the U.S.S.R. have been negotiating START to bring about major reductions in these ballistic missile deployments. Both sides have agreed to the principle of on-site inspection in such a treaty. We believe that the improved verification accuracy that could be brought about by the application of comprehensive on-site inspection to START can increase the confidence of both parties in agreeing to "major" reductions rather than just limiting the present deployment levels. Efforts to achieve the early successful signing of such a START Treaty should be given very high priority. At the present time, the Soviet leadership (under Gorbachev) appears to be much more amenable than at any time in the last 40 years to a treaty with these most desirable features, namely, high confidence on-site verification and major reductions in deployment.

We believe that ratification of the INFT is essential to help bring about the successful early achievement of START. Failure to ratify INFT could severely impact the START negotiations. Ratification of INFT and successful implementation of the early stages of its on-site inspection procedures would help pave the way for resolving the verification issues for START.

V. Discussion of Recommendations

A. Ratification of INFT.

We recommend that the INF Treaty be ratified by the U.S. Senate as signed December 8, 1987, without any amendments that would require its re-negotiation or otherwise significantly delay the date of its implementation. If there are provisions, qualifications, modifications, or clarifications which the Senate may recommend, we feel that these may be transmitted to the executive branch by appropriate means, including separate resolutions, for the purpose of negotiation with the Soviets as separate or supplementary executive agreements to be mutually agreed on as needed for the purpose of improving the operation of the treaty. As provided in Article XIII, such agreements may be achieved through the Special Verification Commission (SVC).

B. Implementation of INFT.

There are a number of actions which we believe should be considered by the executive branch during the implementation of this treaty. Some of these might be recommended by the Senate Foreign Relations Committee as separate resolutions or by other appropriate means. These suggestions include:

- (1) Develop a U.S. arms control verification unit, or agency, with a central headquarters and a professional staff. Such a verification unit must have timely access to all the sources of information presently being gathered by the several U.S. agencies that comprise our National Technical Means (NTM). The verification agency must have the technical expertise to evaluate the information gathered and to transmit the critical information to the appropriate on-site inspection teams in the U.S.S.R. as needed to enhance the effectiveness of the inspections, and must be able to evaluate the information received from the inspection teams (see II-D for example application).
- (2) Develop a trained corp of on-site inspectors as part of the arms control verification unit. The inspection teams provided for in the treaty and the inspections protocol must have proper training in what to look for and know what is important. They should have the logistical support and be equipped with the very best tools and equipment to make the most effective inspections possible. In preparing for their inspections, the teams should have access to the full array of verification technologies, instruments, detectors, and techniques as presently developed by the armed services, the National Laboratories, the DOD, and other appropriate federal agencies. We understand from testimony at the INFT hearings that the DOD has begun the process of selecting and training some of these teams.
- (3) The national laboratories and other federally supported

agencies should continue their research on arms control technologies and develop new techniques where needed to assure the highest capabilities for inspection and verification. As needed, new research should be initiated to support the INFT inspections.

- (4) The verification agency should establish a means to review periodically the actual operation of the verification procedures as established by the INFT. This periodic review might well lead to proposals for improving the effectiveness of the on-site verification procedures as agreed to by the two parties. Such proposals could be discussed with officials of the U.S.S.R. at the SVC, or other appropriate forum, and could lead to both informal and formal (executive) agreements for implementing the proposed improvements in procedures. Verification is a dynamic process and we anticipate that it will be valuable to systematically seek ways to improve it.

C. Further Arms Control Measures.

To take advantage of the progress made in arms control by the INFT, we recommend the following:

- (1) Efforts to successfully complete the negotiation of START should be continued. A START that results in major reductions in the present Soviet ICBM deployments would significantly reduce the most dangerous and threatening nuclear weapons (Section IV) remaining after the INFT reductions.
- (2) Future negotiations should begin for executive agreements, or additions to the protocols of the INFT, to expand the verification capabilities to include several permanent headquarters at strategic locations within the U.S.S.R. and U.S. for the on-site inspection teams of the other party. The agreements should provide for the permanent basing of the inspectors, for the enhancement of the inspection capabilities through the use of permanently assigned aircraft and other appropriate transportation, for increased numbers of allowed inspections per year based on rules of evidence, for expanded use of inspection technologies, and so forth. This increased verification capability is not necessary for the INFT, but rather could be deployed under INFT to gain experience and confidence for application to START. As our inspection capabilities improve, particularly with regard to accurate knowledge of the inventories of mobile ICBM's, etc., our confidence will be greater in negotiations leading to even greater long term reductions in the most threatening strategic weapons.
- (3) We should continue the evaluation of the effectiveness of the non-proliferation treaty (NPT), and look to developing or negotiating improvements that might be necessary to verify and fully implement it. Limiting the nuclear inventories of those nations not now under the NPT as well as those under it, and generally reducing the world's nuclear weapon's inventories must be a continuing goal. Some other nations will undoubtedly agree to these limitations only if the U.S. and U.S.S.R. actually demonstrate a sustained will to reduce their combined nuclear forces through successful treaties like START. Such nuclear reductions have appeared unachievable or unrealistic in the past, but modern man is really foolish not to try. It would be unrealistic to expect the U.S. and U.S.S.R. to reduce their nuclear weapons capabilities to less than the combined threat of several of the smaller existing or potential nuclear powers.
- (4) Finally, if the threats of nuclear wars, and devastating conventional wars, are to be greatly reduced, the U.S. should take the lead in promoting the establishment of stronger and more effective peacekeeping forces (i.e., UN peace forces such as sometimes used in the middle east in past crises), improved regional mutual security organizations (NATO, SEATO, OAS, etc.), and general improvements to the organizational structure and procedures of these bodies. In the long term, drastic arms reductions may result in a more permanent peace only if the nuclear deterrent is gradually replaced by more effective international peacekeeping, improved mutual security organizations, permanent mechanisms for settling international disputes, better methods for fighting terrorism, better checks and balances, and so forth.

VI. Conclusions and Recommendations

After an extensive study of the INF Treaty, its protocols, and the memo of understanding, as signed by the U.S. and U.S.S.R. in December, 1987, our organization concludes that it is in the best interest of our country for the U.S. Senate to ratify the treaty without amendment.

We conclude that ratification of the treaty will improve U.S./U.S.S.R. relations, will result in the successful removal of the most dangerous class of nuclear missiles (those with the shortest flight times), can be amply verified by the extensive provisions for on-site inspection to complement National Technical Means, and will help pave the way for negotiation of a successful Strategic Arms Reduction Treaty (START). We believe that the on-site verification procedures in the INF Treaty are of unprecedented significance, and should be supported and exploited.

We believe that the future security of the NATO Alliance can be assured under the INF Treaty. We feel that the history of compliance to previous treaties, coupled with the extensive on-site verification provisions, warrants ratification of this treaty.

To implement the INF Treaty we recommend the creation of a permanent U.S. arms control verification agency, the development of a trained corps of on-site inspectors, increased R&D of verification technologies by the federal agencies and national laboratories, and dynamic review of the verification procedures with appropriate use of the NRRC, the SVC, and other channels as needed.

Finally, we recommend:

- (1) the early negotiation of START, making use of on-site verification,
- (2) the continued review of the nuclear non-proliferation treaty with the goal of increasing its implementation,
- (3) initiatives aimed at improving utilization of international peacekeeping forces and regional mutual security organizations to achieve a more stable and peaceful world.

APPENDIX A (Tables)

USSR					USA				
Missile	Number	Range km	Length m	Yield kt	Missile	Number	Range km	Length m	Yield kt
SS20	650X3	5000	16	150	GLCM	442	2500	6.5	200
SS4	176	2000	20	1000	Pershing II	247	1800	10.5	5-50
SS12	726	900	12	1000	Pershing I	242	720	10	60-400
SS23	200	500	8	100					
TOTALS	3052					931			
GRAND TOTAL:	3983								

TABLE 1. INF MISSILES TO BE DESTROYED UNDER THE TREATY

Totals given are the number of warheads on the missiles. All these missiles have single warheads except the SS20, which has three warheads. Source of this data is the memorandum of understanding in the treaty.

	USSR	US
ICBM	6440	2261
SLBM	3344	6656
Bombers	1260	4956
TOTAL	11044	13873

TABLE 2. STRATEGIC WARHEADS

SOURCE: Military Balance 1987-1988, The International Institute of Strategic Studies (London)

TYPE	WARSAW PACT	NATO+
IRBM		18 (France)
GLCM	100	
Short-range missiles	1379	125
Artillery	6260	2700
Land-based air	2628	1543
SLBM	18	560
SLCM	182	152
Carrier-based strike		310

TABLE 3. NUCLEAR WEAPONS REMAINING IN EUROPE AFTER INF

Nuclear weapons in Europe from the Atlantic to the Urals remaining after removal of the INF missiles. Source: The Military Balance 1987-1988, International Institute for Strategic Studies (London).

+ Includes France

LAND: Atlantic to Urals

	Warsaw Pact	NATO
MEN (000)		
Active	2,292	2,385
Tanks	52,000	22,200
Man Carriers	25,800	4,200
Artillery (guns, AA, etc.)	89,000	33,920
Armed Helicopters	1,630	780
Combat Aircraft	7,524	3,292

SEA: European and Atlantic Waters

Submarines	231	196
Carriers	4	24
Cruisers	24	16
Other war ships	876	952
Naval Air	813	1132

TABLE 4. CONVENTIONAL FORCES IN EUROPE, 1987

Source: The Military Balance 1987-1988, The International Institute for Strategic Studies (London).

[Washington Post, Mar. 12, 1988]
GORBACHEV SEES PACT ON ARMS BY SUMMIT

MOSCOW, March 11—Soviet leader Mikhail Gorbachev said today that a strategic weapons treaty can be ready for signing by the time President Reagan visits the Soviet Union this spring, the official news agency Tass said.

During a three-hour meeting with Sens. Alan Cranston (D-Calif.), Sam Nunn (D-Ga.) and several others, Gorbachev also complained about the lack of progress at U.S.-Soviet arms negotiations. "The way things have been going in Geneva these past few weeks cannot but arouse apprehension," Tass quoted him as saying. "And some recent official statements have added to the uncertainty."

In an interview with The Washington Post two weeks ago, President Reagan said he doubted that a strategic arms reduction (START) treaty would be ready in time for the summit, scheduled for late May.

Gorbachev told the visiting delegation of U.S. senators and scientists that Moscow would not relax its insistence that an agreement to adhere to the 1972 Anti-Ballistic Missile (ABM) treaty must be negotiated in conjunction with the accord to cut strategic nuclear arsenals. Violating that linkage "destroys the entire machinery of the agreement," Tass quoted Gorbachev as saying.

"We shall never be able to bridle the rabid charger of the arms race if it is let loose in outer space," Gorbachev said, according to Tass. The Soviets view strict adherence to the ABM treaty as a way of restricting Reagan's Strategic Defense Initiative to provide a space-based missile defense system.

In response to a question about Nicaragua by Sen. Alan Simpson (R-Wyo.), Gorbachev said that at the Washington summit he had made proposals to Reagan about resolving that conflict. "The proposals we made then remain valid," Tass quoted him as saying.

Gorbachev is believed to have suggested to Reagan during their summit that Moscow was prepared to halt arms deliveries to the Sandinista government if the United States would abandon aid to the Nicaraguan rebels, known as contras.

In the preparations for the Moscow summit, the fourth to be held

between Reagan and Gorbachev, the Soviet Union is intensifying its negotiations for the START treaty, which would cut strategic weapons on both sides by 50 percent. "It is clear that they want to sign the treaty," Nunn said in an interview following the three-hour meeting with Gorbachev. "And it's clear that they want to sign it with the Reagan administration."

But Nunn, one of the leading arms specialists in the Senate, also said three key obstacles remain in negotiations for the START treaty: the terms for verifying the treaty, the question of sea-based cruise missiles and whether the treaty should be directly linked to agreement on adhering to the ABM treaty.

During the wide-ranging meeting, Gorbachev also hinted that the Geneva negotiations for settlement of the war in Afghanistan are running into difficulties. "We witness attempts to bring aggravating elements into the talks," he said.

In an interview following the meeting with Gorbachev, however, Cranston said he is convinced that the pullout of Soviet troops from Afghanistan, planned to start in May, is likely to proceed without a hitch.

Gorbachev also complained that last week's Brussels meeting of leaders of the North Atlantic Treaty Organization had made "no headway" in resolving differences with the Soviet-led Warsaw Pact over negotiations for an agreement to reduce conventional forces.

"The main thing," Gorbachev was quoted by Tass as saying, "is to put the cards on the table. What is needed here is consistency and frankness which rule out a one-sided approach."

During their talks, the senators reassured Gorbachev and other Soviet officials that the agreement to eliminate medium- and shorter-range missiles signed by Reagan and Gorbachev in December would be ratified by the U.S. Senate.

Gorbachev and the delegation both praised progress in U.S.-Soviet relations and discussed possibilities for expanding ties through scientific exchanges and other means.

[Washington Post, Mar. 12, 1988]
GORBACHEV FACES TWO KEY TESTS

MOSCOW, March 11—As Mikhail Gorbachev enters his fourth year in power today, he is widely recognized as having already surpassed his Kremlin predecessors as a flexible arms negotiator, dynamic leader and successful image maker for the Soviet Union.

Gorbachev's spring plans to hold a summit meeting with President Reagan in Moscow and to withdraw Soviet troops from Afghanistan are—if they go well—expected to raise further the prestige of his country and to boost his own reputation, particularly in the West, where he is known for emphasizing pragmatism over ideology.

But at home, he faces two crucial tests to his leadership.

One of them has been unexpected: the sudden outbreak of nationalist grievances in Armenia and Azerbaijan involving protests by hundreds of thousands of people. The potential explosiveness of these developments, in a country riddled with national and ethnic differences, threatens to undermine Gorbachev's leadership and his policy of greater openness as more conservative forces blame him and his policy for raising expectations that may not be fulfilled.

The other test centers on the next phase of his domestic economic and political reform program, in particular his accelerating campaign to reverse a prolonged slump in the Soviet economy. Here, in contrast to his foreign policy initiatives and general image-making, Gorbachev's prospects

for success look bleaker, yet in the long run this may be the most important test.

After winning the support of Soviet intellectuals by loosening the state's control over the arts, Gorbachev is now wooing the more skeptical constituency of Soviet workers.

Using the momentum he has gained through *perestroika* or restructuring of unwieldy Soviet ministries and inefficient state enterprises, Gorbachev is now seeking to

extend reform to the most powerful and intractable institution in the whole country: the Communist Party.

Despite the ouster of ally Boris Yeltsin from the Kremlin leadership and other political setbacks, Gorbachev has apparently lost none of the drive and verve that attracted worldwide attention soon after he took office on March 11, 1985. Last week, two days after celebrating his 57th birthday, Gorbachev went out stumping in a Moscow factory for his program to bolster the production and quality of Soviet goods.

And yet, almost three months after Gorbachev's reforms were introduced in the majority of plants across the Soviet Union, his program seems mired in red tape and confusion. In particular, the key reform—a plan to transfer industries from dependence on Moscow's central ministries to a system of self-financing—is facing so many difficulties that Soviet economists predict it will not yield concrete results until the early 1990s.

While the policy of *glasnost* (openness) has probably reached the stage of irreversibility, an aide to Gorbachev said in a recent interview here, "the economic reforms have not."

The first stage of Gorbachev's drive ended last summer, when the Soviet leadership passed a package of 11 economic reforms, following a hard-fought lobbying campaign by the Soviet leader. The reforms, centering on the plan to introduce self-financing in 60 percent of the country's enterprises, became effective Jan. 1.

Last week, in apparent response to the discouraging start of this second stage of his reform bid, Gorbachev visited a Moscow ball-bearing factory that is running into trouble with the new program. "If the bureaucracy once again stops the beginning of the reorganization," he told workers there, "it will be disastrous for the country."

When Gorbachev asked how the effort to achieve self-financing was progressing, the factory manager appealed to the Soviet leader to loosen the state's control further. "The state order makes up 99.7 percent of what we are able to produce," V. Novov told the Soviet leader. "And the most unprofitable products are put into a state order."

"As you see, we don't have much room to maneuver."

Gorbachev has already responded to the difficulties by reshuffling senior economic planners in Moscow, who are in charge of enforcing the new reforms. Last month Nikolai Talyzin, who headed the State Planning Commission, or Gosplan, was ousted and replaced by a senior official with long experience in planning for the most successful Soviet industry: defense production.

Perhaps more important, Gorbachev has launched a bid to win the hearts of Soviet workers, whose commitment to the reforms is regarded as crucial to their success.

Long discouraged by the lack of incentives for them to work harder and by the shabby quality of goods available in stores, Soviet workers have also been the loudest to complain about Gorbachev's three-year-long crackdown against heavy drinking, which has made vodka costly and difficult to obtain.

Although he has taken no concrete steps to alleviate workers' concerns, Gorbachev has at least begun to address them directly. "You buy a television and it breaks down after working days or hours," he told a crowd in the city of Murmansk a few weeks ago. "We earn money," he told Moscow workers last week, "but in the stores there is nothing."

Despite Gorbachev's special appeal for their support, grumbling about the antialcohol campaign and some of his other reforms continues to surface in the Soviet press. After bread prices were raised 80 percent as an experiment in Stavropol, the Soviet leader's home town, a local resident griped in a letter to the official weekly *Ogonyok*.

As critical as Gorbachev's reform of the domestic economy is his push to bring about changes in the leadership and structure of the ruling Communist Party.

Gorbachev last month raised a proposal that would, if approved, compel the central party organs to relinquish their absolute control for the first time in postwar Soviet history. In a speech to the party's powerful Central Committee, Gorbachev advocated "handing over a part of the powers of central bodies to the grass-roots level."

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Gorbachev also used the Central Committee address to float some other proposals for reforming the party, including granting increased power to local soviets, or town councils. The soviets, originally conceived as powerful local authorities, have become largely figure-head organizations.

The key party reform proposal, now the subject of an intensive behind-the-scenes debate between two camps of party leaders, is to use the special party conference scheduled to begin June 28 to elect members of the Central Committee.

Gorbachev and his backers are

said to favor the elections as a way to consolidate support for some of his more controversial proposals in the 300-member policy-making body.

Some party leaders oppose the proposed special elections out of fear that they would lose seats on the Central Committee. Party rules do not allow Central Committee elections to take place at the conference, they argue.

In an ominous sign for Gorbachev, several Central Committee members who had come under direct public attack by the leader in recent weeks have managed to cling to their positions. Talyzn,

publicly criticized by Gorbachev last summer, has kept his position as a nonvoting member of the ruling Politburo even after being removed as head of Gosplan.

According to party regulations, regular elections for the Central Committee take place every five years and members are elected for five-year terms. Elections were last held at a party congress in February 1986 and are not scheduled to take place again until 1991.

The Central Committee, which meets at least twice annually, approves major decisions such as election of Politburo members.

[New York Times, Mar. 13, 1988]

COMPROMISE IS OFFERED ON JAPAN NUCLEAR PACT

WASHINGTON, March 12 — To ease Congressional concerns over a nuclear agreement with Japan, the Reagan Administration has developed a plan to fly plutonium from Europe to Japan in a polar route that would not cross American and Canadian territory.

The plan was confirmed in a letter sent this week to Senator Frank H. Murkowski, Republican of Alaska, from Michael H. Armacost, Under Secretary of State for Political Affairs.

Mr. Murkowski and other members of the Alaskan delegation have been critical of the nuclear cooperation agreement because the Administration had been considering a plan that would have permitted flights of nuclear fuel across Alaska.

The agreement, signed in November, would give Japan advance consent for 30 years to recover the plutonium from fuel the United States provides for Japan's nuclear plants.

To do this, Japan would ship the spent fuel it already has to reprocessing sites in Europe, which would separate plutonium from the waste. The plutonium would then be shipped back to Japan by air. Under a previous agreement, such shipments had to be approved on a case-by-case basis.

The Administration has calculated that Congressional opposition can be overcome if the concern over how the plutonium is to be shipped is met.

But Senator Alan Cranston, Democrat of California, and Senator John Glenn, Democrat of Ohio, among other senators are sharply critical of the agreement, and may push for a vote early next week on a resolution expressing disapproval of the agreement.

The critics assert that the agreement would encourage a dangerous international trade in plutonium, that it would increase the risk of terrorists acquiring plutonium and that it is inconsistent with the terms of the Atomic Energy Act.

The position of the critics is buttressed by a report by the General Accounting Office, which has not yet been made public. The report concludes that the agreement "does not meet the requirements" of the act governing the transfer of plutonium.

The report by the General Accounting Office, the investigative arm of Congress, was prepared for the House Foreign Affairs Committee and says the Atomic Energy Act should not be interpreted as allowing "one-time blanket approval" for reprocessing and shipping plutonium over a 30-year period. The report also says that the agreement "deprives the Congress of its oversight function."

The Administration has argued that the agreement is consistent with the act.

In his letter to Senator Murkowski, Mr. Armacost said the Administration's "first priority" in devising a plan to ship the plutonium calls for non-stop polar shipments between Europe and Japan. The planes would land in Alaska only if there was an emergency, and the landing sites would be at military installations far from population centers.

The letter said the Administration will also continue to review other possible air shipment routes, as well as arrangements for shipping the plutonium by sea.

A Pentagon report provided to Congress this month says the best way to ship the plutonium is by civilian planes. The report says shipments by sea would require naval escorts to protect against theft or sabotage. The Pentagon is reluctant to provide such an escort, arguing that it would be expensive and would divert American vessels from possible military missions.

[New York Times, Mar. 13, 1988]
U.S. ASSERTS SOVIET SHIFTS NUCLEAR SUBS TO EUROPE

WASHINGTON, March 12 — The Soviet Union has recently stopped sending Yankee nuclear missile submarines to patrol off the Atlantic coast of the United States, diverting them to European waters instead, according to the United States Director of Naval Intelligence.

The move appears to be aimed at compensating for the loss of land-based SS-20 medium-range nuclear missiles targeted against Europe, Rear Adm. William O. Studeman told the House Armed Services seapower subcommittee. Those missiles are to be destroyed under terms of the new arms control agreement signed by the United States and the Soviet Union.

Admiral Studeman's testimony, presented at a closed hearing March 1, was released later by the Pentagon.

While the admiral said the shift in submarine operations would leave the strategic balance between the United States and the Soviet Union "essentially unchanged," it represents the first concrete sign of how the Soviet Union will adjust its nuclear forces once the treaty takes effect.

In an interview Wednesday with The Associated Press in Belgium, the Atlantic alliance's top commander, Gen. John R. Galvin, said Soviet moves to reorganize its missile forces had been expected and did not violate the arms control treaty.

The United States is expected to compensate in similar ways for the

elimination of medium-range missiles from Europe by shifting other weapons to cover important targets.

Without providing details, General Galvin, who is an American, said the Soviet Union would take missiles "that were aimed in another direction and aim them toward Western Europe."

Admiral Studeman said the Soviet Union could continue to aim nuclear weapons at European targets by rely-

ing on the Yankee submarines, and by deploying cruise missiles on ships and submarines in waters near Europe. The designation "Yankee" and other names for Soviet vessels are those listed by NATO, not the Soviet Union.

"Yankee" submarines have not patrolled off the U.S. coasts since late 1987, Admiral Studeman said. He said they instead are patrolling in waters near Europe.

The Soviet Union usually keeps two or three Yankee submarines, which are among its oldest missile-carrying vessels, operating in the Atlantic, about 1,000 miles or more from the United States. In October 1986, one of the submarines caught fire and sank in the operating area, where they are closely tracked by American forces.

Each Yankee submarine can carry 16 nuclear-tipped SS-N-6 missiles.

The admiral noted that the missiles, with a range of up to 1,000 miles, can reach European targets "while alongside their piers." He estimated that about 500 missile warheads could be

assigned to targets in Europe and Asia from Yankee submarines.

Reduction Is Planned

But, if another arms control treaty sharply cutting the numbers of long-range nuclear missiles is signed, the Yankees probably would be retired. Under a proposed agreement, the Russians would probably reduce the number of its missile-carrying submarines from its level of 63 to somewhere between 14 and 34 submarines, he said.

The Soviet Union has been steadily modernizing its fleet of missile-carrying submarines, and has newer vessels carrying more capable missiles with which to cover targets in the United States, according to the Pentagon.

The fifth modern Typhoon-class submarine was launched late in 1984 and the fifth Delta 4 submarine early this year, the admiral said.

But the four Delta 4 submarines already in the fleet have never gone on patrol, he said. The submarine's missile, the SS-N-21, which carries 10 warheads and has a range of nearly 8,000 miles, "apparently has suffered reliability problems," he said.

The Pentagon nonetheless considers both the Delta 4 and its missile to be operational, he said.

The admiral said the Pentagon believes the Soviet Navy this year began deployment of a new submarine-launched cruise missile, the SS-N-21, which is thought to have a range of 1,000 miles.

[Washington Times, Mar. 14, 1988]
U.S., SOVIET DEFENSE CHIEFS TO DISCUSS SHIFT IN THINKING

MOSCOW (Reuters) — Soviet Defense Minister Dmitry Yazov and U.S. Secretary of Defense Frank Carlucci are expected to discuss efforts to shift military thinking from an offensive to a defensive posture when they meet in Bern this week.

No agenda has been released, but the talks, which start in the Swiss capital on Wednesday, are seen as part of preparations for the next superpower summit in Moscow in May.

The talks follow several attempts last year to set up a meeting between Gen. Yazov and Mr. Carlucci's predecessor, Caspar Weinberger. The reason the talks did not take place last year was attributed partly to an unwillingness by Mr. Weinberger, a hardliner, to discuss U.S. defense cuts with Moscow.

Gen. Yazov, 64, was appointed defense minister in May to replace Marshal Sergei Sokolov, who was retired after West German teen-ager Mathias Rust penetrated Soviet air defenses to land his light plane in Moscow's Red Square.

Gen. Yazov has emerged as the main architect of Soviet leader Mikhail Gorbachev's campaign to change the image of the Soviet mili-

tary and to give a new impetus to East-West arms talks.

The author of a book on military theory, "In Defense of Socialism and Peace," Gen. Yazov is an exponent of the policy of replacing offense with defense in Soviet military strategy.

In a speech in Washington last week, Mr. Carlucci, 57, referred to the forthcoming Bern talks and in particular to the apparent change in Soviet military thinking.

"I'm very interested in hearing what they have to say about what they claim to be a new military doctrine, a doctrine of 'reasonable sufficiency,'" he said. "Are they indeed changing their longstanding doctrine from offense to defense?"

The talks will be held alternately at the embassies of the two countries in Bern. The Soviet Union has been pressing for agreement on a 50 percent reduction in strategic arsenals to be ready in time for the Moscow summit, although both sides say the meeting will go ahead even without the accord.

Mr. Carlucci and Gen. Yazov are expected to discuss in detail ways of verifying such an agreement, which military analysts say is one of the

most complex problems needing to be resolved.

Conventional arms are also likely to feature high in the talks, with both sides seeking to break a deadlock in the 14-year-old Mutual and Balanced Force Reduction (MBFR) talks in Vienna.

Warsaw Pact conventional forces enjoy a massive numerical superiority in Europe. NATO insists that any moves to reduce both sides' troops and arms must be accompanied by larger cuts by the Soviet Union in order to achieve parity.

The Soviet Union argues that Western assessments ignore NATO's superiority in strike aircraft and helicopters.

Mr. Carlucci said he had no objection to Gen. Yazov's desire to discuss arms control, provided it was understood that "I'm not a separate negotiating channel."

He said he was interested in discussing the whole range of military contacts, including incidents involving the allied military liaison group in East Germany. An American officer with the group was slain by a Soviet soldier three years ago this month, and a soldier was shot and wounded last year.

[New York Times, Mar. 14, 1988]
2 MILITARY CHIEFS SET FOR BLIND DATE

WASHINGTON, March 13 — It is the diplomatic equivalent of a blind date — their friends think the two might have something in common, but nobody is so brash as to say they'll truly hit it off.

Still, as he contemplated this week's meeting with his Soviet counterpart in Switzerland, Defense Secretary Frank C. Carlucci 3d said that his unfamiliarity with Defense Minister Dmitri T. Yazov needn't stifle the conversation. They have plenty to talk about.

Mr. Carlucci said last week that he had four topics on his mind for the meeting, the first post-war consultation between the two superpowers' top military officials. They include regional issues, such as Afghanistan and the Persian Gulf; arms control, including prospects for the continuing talks on nuclear, chemical and conventional weapons, and the prevention of dangerous incidents involving military forces of the two sides.

Shifts in Military Doctrines

Fourth, and perhaps most tantalizing, is the prospect of a detailed exploration of the evolving military doctrines of the two sides. Both nations have recently published provocative theses suggesting major changes in military behavior in the years ahead.

What neither Mr. Carlucci nor anyone else in Washington's military and diplomatic circles can predict is whether the meeting in Bern, the Swiss capital, culminating years of fruitless invitations back and forth between the two nations, will lead to anything more productive than a pleasant meal or two.

Some analysts neither expect, nor want, much from the three-day meeting, which will begin Tuesday. The more publicity lavished on it, they warn, the more likely it is that the Soviet leadership will exploit the meeting for its own public relations benefit.

Ex-Officials Are Suspicious

"I would not expect to see enor-

mous substantive results," said James R. Schlesinger, the former Defense Secretary. "If there were enormous substantive results, I would tend to worry about it."

Richard N. Perle, who recently left a senior policy-making job at the Pentagon, is also deeply suspicious of Soviet military motives.

But he said the meeting was worth while. "If they get a good discussion going on the nature of Soviet forces, why they position themselves the way they do, that could be interesting," he said. "He could draw them out on their nuclear strategy, on their objectives, on their requirements for deterrence. We almost never talk to the Russians about these things."

Mr. Carlucci is expected to steer the conversation in these directions and away from detailed discussion of arms control initiatives. At a meeting last week with Secretary of State George P. Shultz, he agreed not to enter into any direct negotiations with General Yazov.

The Soviet military leader, on the other hand, is expected to talk about arms control objectives, and particularly, the Soviet Union's objections to the American Strategic Defense Initiative, a program of anti-missile defenses that is a major obstacle to strategic arms reduction talks.

Indeed, one reason former Defense Secretary Caspar W. Weinberger never met General Yazov or his predecessor, Sergei L. Sokolov, is that the Soviet Union insisted on holding the talks in Geneva, a popular venue for arms control discussions. Mr. Weinberger, who wanted to address a broad agenda, recommended Washington instead, but the Russians demurred.

A Powerful Handshake

Unless he studies his briefing books assiduously, Mr. Carlucci will know very little about General Yazov when

he shakes hands for the first time. The first impression may even be unsettling.

Fred C. Ikle, who resigned this winter as Under Secretary of Defense for Policy, described the Russian as "a burly fellow with an iron-grip handshake," adding, "I've heard he takes your hand away when he shakes it."

Kremlinologists in the American military say that just as Mr. Carlucci is a product of the United States Foreign Service and the Washington bureaucratic corps, General Yazov is defined by the Soviet military staff system through which he ascended to power.

Dr. Jacob Kipp of the Soviet Army Studies Office at Fort Leavenworth, Kan., said General Yazov, who was born in Siberia in 1923, joined the Red Army in 1942 and the Communist Party in 1944. By 1956 he was at the prestigious Frunze Academy, where Soviet military doctrine is developed, and he graduated from a higher military school, the General Staff Academy, in 1967 — a classmate of Marshal Sergei F. Akhromeyev, now chief of the general staff.

The Russian's long exposure to military thought has evidently not made him ideologically hidebound. He is said to be firmly on board with Mikhail S. Gorbachev, the Soviet leader, in seeking reforms.

The American Defense Secretary, too, is in the midst of imposing changes on the military, brought on by a steady reduction in the Pentagon's spending.

But as the Russian and American probe each other's thoughts on shifts in doctrine, their fundamentally different backgrounds may stand in the way of understanding each other.

"What you are talking about here is two military cultures talking with each other, at each other, and unfortunately past each other," said another Fort Leavenworth scholar, Dr. Bruce Menning.

[Washington Times, Mar. 14, 1988]
ADELMAN FIRES BACK

Ken Adelman, former director of the Arms Control and Disarmament Agency and now a columnist appearing in The Washington Times, let go with both barrels at staffers for Time magazine and The Washington Post in an interview with Deadline, a newsletter published by New York University's Center for War, Peace and the News Media.

"I think Strobe Talbott is just dead-wrong on the whole subject of

arms control, and I don't think he's fair," Mr. Adelman said of Time's Washington bureau chief, who has specialized in arms control subjects. Mr. Talbott's book, "Deadly Gambits," "is just wrong," he said, describing its basic premise as "preposterous" and "laughable." "He tries to People-magazine the whole subject of arms control."

Mr. Adelman said he never returned phone calls from Mr. Talbott, or from Walter Pincus, na-

tional security writer for The Washington Post. "I don't think they were fair, and I don't think they tried to be objective." He traced his mistrust of the two to his confirmation hearings, when Time "kept saying all kinds of... goofy things that were just factually wrong. Walter Pincus was just outrageous. He made selective use of facts and exhibited a real anti-Reagan-administration, negative, harping, critical bias in his reporting."

[Christian Science Monitor, Mar. 14, 1988]

WEST AND EAST WRANGLE OVER LINKING HUMAN RIGHTS AND ARMS ISSUES

Human rights issues in the East bloc continue to be the main stumbling block to getting on with new conventional arms control talks.

On Friday, during a session of the Conference on Security and Cooperation in Europe (CSCE), the Soviets responded negatively to a compromise proposal by neutral nations that the West had hoped could break the logjam. The 23 NATO and Warsaw Pact states, plus 12 "neutral" nations, like Switzerland and Sweden, are members of the conference, which reviews compliance with 1975 Helsinki accords on military security, economic cooperation, and humanitarian issues.

The compromise calls for replies to applications for family meetings within one month, for family reunification, and for marriage between citizens of different countries provisionally within three months. It would guarantee rapid and unhindered delivery of correspondence and parcels. Moscow committed itself to replies within six months.

The United States, the Western nation most insistent on improved Soviet performance in human rights as a precondition for new arms control talks, would like to press the Soviets to go further and promise to answer all outstanding applications for family reunification and visits within

two months of the end of the current conference.

US Ambassador Warren Zimmerman says the US would like "more detailed and specific commitments on human rights." So far, he says, there has been "some progress" on prisoners' rights.

Human rights and security issues, although they may have little intrinsic relationship, have been linked at Western insistence. Bonn is the most reluctant to hold the new arms control talks hostage to rights concessions. Western participants have been asking the Soviets to offer more guarantees of human rights before the opening of the long-anticipated conventional arms talks.

The expectation is that some form of compromise will be hammered out to enable the new talks on the conventional balance between the Atlantic and the Urals to get under way by summer or fall. These Conventional Stability Talks, as they are named, would presumably succeed the fruitless 14-year-old talks on Mutual Balanced Force Reductions in the smaller central front area.

The subordinate issue that is yet to be decided is what relationship the new talks will bear to concurrent talks about "confidence-building measures" among all 35 CSCE members.

[Washington Times, Mar. 14, 1988]

MISSING ATOM SCIENTIST BELIEVED SPY FOR U.S.

TAIPEI, Taiwan — A top nuclear scientist here has disappeared and may have fled to the United States with confidential blueprints disclosing that Taiwan plans to make nuclear weapons, newspapers reported yesterday. Government officials have repeatedly denied any plans to produce nuclear weapons and said all nuclear research programs in Taiwan are for peaceful purposes.

On Friday, Defense Minister Cheng Wei-yuan told the lawmaking Legislative Yuan a warrant has been issued for the arrest of Col. Chang Hsien-yi, 45, who was deputy director of the nuclear energy research center at the military-run Chungshan Institute of Science and Technology. Col. Chang has been missing since January. Without disclosing their sources, several newspapers

claimed Col. Chang was a U.S. spy and had fled to the United States with his wife and three children.

Some newspapers said Taiwan may have recycled key waste elements from its three nuclear power plants to make nuclear weapons. The United Daily News said the United States may have become suspicious and this may have been behind its recent decision to stop supplying heavy water to Taiwan.

[Washington Times, Mar. 14, 1988]

GORBACHEV, KOHL TO EXCHANGE VISITS

BONN—West German Chancellor Helmut Kohl will pay a long-awaited visit to Moscow this autumn and will host Soviet leader Mikhail Gorbachev in Bonn in the first half of next year, Kohl's office said yesterday.

Announcements of the visits

in Bonn and Moscow ended months of speculation and confirmed that relations were back on a cordial path after a chill last year. Dates for both trips will be decided later.

Kohl had said publicly that he wanted Gorbachev to come to Bonn in the first half of this

year, during West Germany's sixth-month presidency of the European Community. The official Soviet news agency Tass quoted both men as saying the time had come to prepare for a "coming summit" between Moscow and Bonn.

[Washington Times, Mar. 14, 1988]

GORBACHEV SMOOTHNESS DANGEROUS, NIXON WARNS

NEW YORK (Reuters) — Soviet leader Mikhail Gorbachev's rise to power marks a dangerous new stage in relations between the superpowers, former President Richard Nixon said in an article this week-end.

Mr. Gorbachev has "captured the imagination of many in the West with a personal style that is refreshingly different from that of his predecessors," Mr. Nixon said. "If we mistake a change in style of leadership for a change in Soviet international goals, Mr. Gorbachev may capture the rest of the West as well."

Mr. Gorbachev "has preserved the long-term [Soviet] objective of pushing for global predominance," he said.

The article in Sunday's New York Times Magazine, was adapted from

a new book by the former president titled "1999: Victory Without War" to be published next month.

Mr. Nixon, who met Mr. Gorbachev in July 1986, described Soviet foreign policy since his taking office as "more skillful and subtle than ever. But it has been more more aggressive, not less."

If the Soviet leader's widely publicized domestic reforms are successful, Mr. Nixon said, "we will confront a more productive — and more formidable — Soviet Union."

The former president said he was confident Mr. Gorbachev would be able to survive any serious challenge to his power.

Unlike Nikita Khrushchev, ousted by his opponents for his reform efforts, Mr. Gorbachev "does not leave them in positions in which they can

threaten his power," Mr. Nixon said. Instead he "ferrets them out and replaces them with his supporters."

On arms negotiations with the Soviets, Mr. Nixon said he opposed any across-the-board 50 percent cut in nuclear arsenals, saying this would "codify the decisive Soviet superiority in land-based first-strike nuclear weapons."

Mr. Nixon listed six areas in which the United States must develop its capabilities to compete with the Soviets.

These included more effective use of diplomacy, economic and military aid, selective use of military force, continued covert actions, and greater efforts at ideological persuasion via radio broadcasts.

"The Soviet Union seeks victory without war," Mr. Nixon said. "If we seek peace without victory, we are doomed to defeat."

[Washington Times, Mar. 14, 1988]

GORBACHEV GOING FOR THE GLOBAL GOLD

In the midst of our presidential primaries, Soviet General Secretary Mikhail Gorbachev is going for the gold in his own major political campaign. His strategy, clearly emerging, is to gain immediate domestic strength by capitalizing on opportunities provided by disarray in the United States.

Mr. Gorbachev initially selected the "openness" of "glasnost" and the economic restructuring of "perestroika" as "campaign issues" with which to consolidate his political power. Mindful that Nikita Khrushchev was ousted when he initiated somewhat similar programs, Mr. Gorbachev sought to avoid Mr. Khrushchev's mistake of relying exclusively on the yearning masses to help him overcome the entrenched bureaucracies in the government, the Communist Party and the military.

With "glasnost," Mr. Gorbachev has sought to meet the rising demand of the Soviet peoples for a less ruthless totalitarianism. And with "perestroika," he held out the promise that a more consumer-oriented, less Marxist economy would, at long last, provide the quality of life for which Soviet citizenry had sacrificed so much.

In contrast, in his dealings with party, government and military officials, Mr. Gorbachev has been quite clear that both "openness" and economic restructuring are the tools that will restore the strength of the Leninist system, refurbish the images of the party and the government, and restore momentum to their shared objectives — achievement of political, economic and military hegemony over the globe.

Mr. Gorbachev's formidable opponents within these bureaucracies believe that his changes could become irreversible, leading to a continuing demand for further internal political reforms and to popular resistance to the concept of world domination. To deal with this challenge, Mr. Gorbachev has set a series of short-term objectives to win internal political support. He seeks to capitalize on the lame-duck final 10 months of the Reagan administration and the naivete of a U.S. Congress controlled by the Democrats.

The achievement of an INF Treaty was his first step. His military is satisfied that its new mobile SS-25 missiles inside the U.S.S.R. cover the same Western European destinations previously targeted by the INF missiles, which will be removed and destroyed, and that its conventional, chemical and bacteriological warfare superiorities are enhanced by withdrawal of U.S. INF missiles.

His Communist Party is content that the INF Treaty leaves room to cheat while also contributing momentum in the United States toward a START agreement that can, through fast-paced negotiations, provide ample loopholes to cheat further and thus increase the Soviet Union's existing superiority in intercontinental ballistic missiles.

The withdrawal from Afghanistan is his second step. The Soviet people want out. His party and his military do not wish to lose a war nor to see their client government overrun. Mr. Gorbachev believes that these objectives are not mutually conflicting. He seeks to negotiate cessation of U.S. military aid to the Afghan resistance while maintaining a Soviet-controlled puppet government in Kabul.

He is maneuvering to exacerbate the existing rivalries among the seven or more factions of resistance fighters while ending U.S. military aid to the guerrillas.

With covert Soviet military support to their Kabul satraps, with factional warfare breaking out among the Afghan freedom fighters, Mr. Gorbachev has an excellent probability of achieving in withdrawal that which was not accomplished by invasion — Soviet hegemony over Afghanistan.

Continuing the expansion of Soviet influence in Central America is a critical third step for Mr. Gorbachev if he is to earn continuing party and military support against his traditionalist opponents.

The congressional predisposition to kill the Contra movement has played directly into his strategy. Encouraged by congressional naivete, he has recently authorized President Daniel Ortega to harden his public stance.

Cardinal Obando y Bravo has been fired as "agreed" intermediary between the Sandinistas and the Contras.

Aid to the leftist guerrillas in El Salvador has been increased. And there have been increased threats to other Central American leaders that they had better "go along to get along" with the strategic plans of Moscow, Havana and Managua in the face of a lack of U.S. political resolve.

Thus Mr. Gorbachev is improving his internal political strength by going for the gold at the expense of his domestic opponents while the U.S. giant lies hamstrung by a spent administration, a naive Congress and presidential primaries.

[Washington Times, Mar. 17, 1988]

SOVIET MILITARY-CUT PROPOSALS WOULD RETAIN ITS EDGE IN EUROPE

BERN, Switzerland — Soviet Defense Minister Gen. Dimitri Yazov yesterday proposed cuts in military forces in Europe that still would leave the Soviet Union with conventional superiority.

The proposal, according to Soviet sources, was one of the "many subjects" discussed throughout the day between Defense Secretary Frank Carlucci and his Soviet counterpart.

The Bern meeting does not involve either members of NATO or of the Soviet-led Warsaw Pact. It is part of the developing bilateral contacts between Washington and Moscow.

The Soviet Union is using the talks to enhance its policy of glasnost or openness. Gen. Yazov is described as one of the strong backers of Mikhail Gorbachev and of his search for global detente.

The talks include nuclear and conventional disarmament, measures to avoid incidents between warships, planes and military personnel of the superpowers, as well as reports of changing priorities in the military doctrines of Moscow and Washington.

On Tuesday, Mr. Carlucci said he saw no indications of any "practical changes" either in Soviet production of offensive weapons such as tanks and artillery or in deployment.

Yesterday, Gen. Yazov apparently returned to the favorite Soviet theme that both power blocs should cut their armed forces by 100,000 to 150,000 men, regardless of the fact that NATO is dwarfed by Warsaw Pact manpower. Following this initial cut, the Soviet Union envisages a further cut of 25 percent.

The United States and NATO view is that any symmetrical reduction would leave the Warsaw Pact in a position of superiority. An added difficulty is the fact that while U.S. units would be withdrawn from Europe across the Atlantic, Soviet ones would move only a few hundred miles eastward.

Another working session is planned for this morning, before Mr. Carlucci and Gen. Yazov address the press separately.

Soviet officials stressed that the talks are not a "substitute for the official talks conducted by the foreign ministers and the delegations of the U.S.S.R. and the United States in Geneva."

U.S. officials declined comment on the substance of the talks pending a news conference by Mr. Carlucci today. They stressed, however, that the discussions are exploratory in nature and are mainly aimed at increasing contact between the military branches of the superpowers.

After the morning session, which took place at the U.S. Embassy, Pentagon spokesman Dan Howard said merely, "The tone has been very good."

In contrast to this generally optimistic description, however, the official Soviet news agency Tass distributed a scathing article attacking Mr. Carlucci's skepticism about supposed Soviet strategy changes.

Referring to Mr. Carlucci's statement that he had no proof of practical Soviet strategy shifts, Tass military news analyst Vladimir Chernenyshev said: "Such approach by the U.S. defense secretary does not accord with elementary requirements of ethics, not to mention diplomacy."

The Tass comment — obviously approved by the highest Soviet authorities — charged that America's own strategy was based on "achieving U.S. complete and undisputable superiority, restoring the United States' leading role in the world, and actively counteracting the Soviet Union in everything and in all parts of the world."

The article concluded by asking: "What grounds does the Pentagon chief, who is busy denigrating the military doctrine of the U.S.S.R., have to speak of 'defensive' character of the U.S. doctrine so categorically and without foundation?"

[Washington Times, Mar. 17, 1988]

PENTAGON STUDY CLAIMS SDI TEST WON'T VIOLATE ABM RESTRICTIONS

The Pentagon has certified that a planned Strategic Defense Initiative test simulating the destruction of a Soviet missile in flight does not violate restrictions under the "narrow" interpretation of the 1972 Anti-Ballistic Missile treaty.

The recent finding, made by a special Pentagon panel and approved by Undersecretary of Defense for Acquisition Robert Costello, was made public in documents released yesterday by the House Armed Services Committee and in testimony by SDI chief Lt. Gen. James Abrahamson.

The experiment, slated for fiscal year 1990, would be the first flight test to help determine whether small rockets housed on satellites could intercept and destroy Soviet missiles early in their flight. These space-based interceptors form a key part of the Pentagon's blueprint for an initial "star wars" missile defense

that it says could be deployed beginning in 1996 or 1997.

The SDI Organization's plan for the experiment "has now been judged to be a perfectly legal and proper way to conduct this test," Gen. Abrahamson told the panel's research and development subcommittee in hearings on the agency's \$5 billion budget request.

Unless challenged by Congress — which has expressed skepticism toward the interceptor project — the finding paves the way for the Defense Department to begin contracting for the experiment.

Congress voted last year to bar spending on SDI experiments that would exceed the narrow anti-ballistic missile treaty interpretation, and appears likely to do so again this year. The Reagan administration since 1985 has tried to advance a "broad" reading of the pact that would allow development and

testing of some space-based SDI technologies.

The narrow interpretation of the ABM pact sharply limits superpower missile defenses.

While not technically in conflict with the treaty, the test "directly undermines [its] ban on space-based testing," said Matthew Bunn, an Arms Control Association analyst. "Every time you weaken the ABM treaty restraints, that means the Soviets can do the same thing, and we have no grounds to complain."

In a memorandum to Gen. Abrahamson, Mr. Costello stated that the space-based interceptor test "has been reviewed and found to be in compliance with the ABM treaty."

But Mr. Costello warned in the memo, which appears to be dated March 15, 1988, that "any increase in the performance capability of the SBI device from that currently

planned and described ... or tests involving ABM interceptor missiles or ABM radars will require prior approval."

The simulated missile intercept, which will take place over the Army's Kwajalein Atoll in the South Pacific, has been modified to comply with the 1972 accord.

In the experiment, a rocket containing both a "kill vehicle" and a sensor device will be launched from Kwajalein into an arc-shaped trajectory. Ten minutes later, a second rocket, representing a Soviet SS-18

missile, will be launched from a nearby island. As it falls back toward the Earth, the kill vehicle will attempt to intercept the second rocket in space while the sensor module watches from 2½ miles away.

Pentagon treaty compliance official Lee Minichiello, chairman of the Compliance Review Group that approved the test, said it complies with the ABM pact because:

- The interceptor will be launched from a fixed, ground-based launcher.
- The test will take place at Kwa-

jalein, which is an approved U.S. ABM test range under the treaty.

- The interceptor, aside from a small amount of "divert capability" to make its final approach to the target, will have only the velocity provided by the rocket that launched it.

Gen. Abrahamson told the panel that SDI's annual report to Congress, due Tuesday, has been delayed by treaty-compliance questions. After questioning by several lawmakers, he promised to provide the report, minus the compliance section, by tomorrow.

[Washington Post, Mar. 17, 1988] SOVIET URGES NAVAL CUTS IN MEDITERRANEAN

BELGRADE, March 16—Soviet leader Mikhail Gorbachev today proposed a freeze on Soviet and U.S. naval forces in the Mediterranean and accused North Atlantic Treaty Organization leaders of "harping on the lie of a Soviet and Warsaw Pact threat" in order to resist cuts in nuclear weapons.

In a speech to the Yugoslav federal assembly, Gorbachev called the Mediterranean "an intricate knot of conflicting interests abounding in huge military arsenals" and said a freeze on the superpowers' warships should begin July 1. This would be followed, he said, by the establishment of ceilings for the naval forces and an eventual withdrawal of all U.S. and Soviet ships.

The Soviet leader proposed confidence-building measures such as prior notification by Soviet and U.S. forces to each other and Mediterranean states about maneuvers of ships and the establishment of "principles and methods assuring the security of shipping, especially in international straits."

He suggested that a "consultative meeting" of Mediterranean states and other interested countries could be organized to sort out proposals for disarmament in the area and agree on putting them into effect.

Western diplomats said the proposals appeared designed to win favor among Balkan and Arab states along the Mediterranean but were unlikely to lead to serious negotiations with the West. The U.S. 6th Fleet, with about 50 ships, is permanently stationed in the Mediterranean, while the Soviets keep 40 to 45 warships in the area.

[In Washington, State Department spokesman Charles Redman said he could not yet offer a detailed reaction to the Soviet proposal, *Agence France-Presse* reported. "I would only say we have important interests to protect in the Mediterranean and a fundamental commitment to our NATO allies and any proposal of that kind would be viewed in the light of those basic security considerations," Redman said.]

One diplomat here suggested that even nonaligned Yugoslavia might not favor Gorbachev's plan, although its Communist leadership would be unlikely to say so publicly.

"He is making titillating proposals that he knows would be unacceptable," said the diplomat. "They would lead to a significant change in the [East-West] balance of power."

Gorbachev coupled the Mediterranean offer with a sharp attack on the positions of NATO leaders who favored the retention and modernization of a western nuclear deterrent in Europe at the NATO summit meeting held earlier this month in Brussels.

In Brussels, British Prime Minister Margaret Thatcher expressed strong support for modernizing short-range nuclear missiles deployed in West Germany despite the opposition of West German Chancellor Helmut Kohl and French President Francois Mitterrand.

Gorbachev said his impression of the summit was "a dual one" and noted that it had favored continuing efforts to reduce nuclear and other arms. "But we cannot but feel apprehensive," he said, "because formulas of an entirely different kind could be heard."

"Some of the North Atlantic leaders obviously tried to link the unlinkable. They are trying to link approval of the treaty on medium- and short-range missiles with the demand to compensate it with a buildup of other armaments, particularly on NATO's southern flank."

"They are trying to link a reduction of conventional armaments, the elimination of imbalances, with a stubborn insistence on nuclear deterrence dogmas," Gorbachev said. "These contradictions—not to say absurdities—have quite definite political reasons behind them."

He said those "still nursing ideas dominant before the Reykjavik summit and the Washington agreements dread the very thought of parting with nuclear weapons."

"Since it is rather awkward for them to admit this in public," he said, "they keep harping on the lie

of a Soviet and Warsaw Pact threat, trying to at least salvage what remains of the enemy image that is now being erased by the peace initiatives of the Soviet Union and other socialist countries."

Similar criticism of NATO leaders has appeared widely in the Soviet press since the Brussels summit. However, Gorbachev's remarks represented the most extensive and strident public reaction he has offered to the meeting.

Referring to relations with Yugoslavia, Gorbachev conceded Soviet responsibility for the break between Moscow and Belgrade in 1948 that led to Yugoslavia's nonalignment. "Unfounded accusations were leveled against the leadership of the Communist Party of Yugoslavia that in-

flicted grave damage on Yugoslavia, the Soviet Union and socialism as a whole," he said.

"I consider it necessary to refer to this today," Gorbachev added, "so as not to leave any space for concern, suspicion, mistrust. . . ."

Western diplomats said the statement was the most explicit acknowledgement to date by a Soviet leader of blame for the break and would be welcomed by the Yugoslav leadership. They noted, however, that Gorbachev had stopped short of naming either Soviet leader Joseph Stalin, who tried to establish Soviet control over Yugoslavia, or Yugoslav leader Josip Broz (Tito), who successfully resisted.

Gorbachev said much had been done to overcome the Soviet-Yu-

goslav estrangement and praised documents approved by Tito and Nikita Khrushchev in 1955 and 1956 establishing Yugoslavia's independence. A new joint declaration was signed yesterday by Gorbachev and Yugoslav leaders, but it has not been made public.

He said "it was a sign of maturity" that socialist states were able to conduct their affairs independently without one country dominating others. But he said the Soviet Union and Yugoslavia needed to restructure their economic relations, setting up direct links between enterprises, joint ventures and joint marketing in third countries in order to "maintain the volume and dynamics of trade," recently the subject of dispute.

[Washington Times, Mar. 17, 1988] GORBACHEV TURNS TO MEDITERRANEAN

BELGRADE, Yugoslavia (Reuters)—Soviet leader Mikhail Gorbachev made proposals yesterday for easing tension in the Mediterranean, saying it was "one of the most explosive regions in the world."

He told the Yugoslav Parliament on the third day of an official visit to Belgrade that the Mediterranean was a center of conflicting interests harboring growing military arsenals and that he wanted to reduce tension in the region.

He later flew north to the Yugoslav Alps to visit Ljubljana, capital of the country's most Westernized and economically advanced republic, Slovenia.

He was to have talks last night and today with Slovenian party leader Milan Kucan, a like-minded man keen on promoting a freer economy and greater democracy within Yugoslavia's communist system.

Addressing Parliament in Belgrade, Mr. Gorbachev acknowledged that "unfounded accusations" by Josef Stalin against Yugoslav leader Josip Broz Tito in 1948 had inflicted great damage.

Mr. Gorbachev, the first Soviet leader to address the Belgrade assembly, pointed his remarks at Yugoslav concerns, accusing NATO of seeking to build up arms on its southern flank to compensate for the treaty to scrap medium-range missiles.

"Today the Mediterranean is one of the most explosive regions of the world, an intricate knot of conflicting interests abounding in huge military arsenals which are continuing to grow," Mr. Gorbachev said.

He said he wanted to supplement previous Soviet ideas for reducing

military tensions in the area with three proposals:

- The number of Soviet and U.S. ships and the naval potential of the two countries should be frozen from July 1 this year and ceilings set on their levels thereafter.

- The Soviet Union and the United States could give each other advance warning on any movements of warships and naval exercises, and could invite observers to the maneuvers.

- Mediterranean and other interested countries could draft measures to ensure the security of "intensive shipping, especially in international straits," with full Soviet support.

Moscow said last year it would withdraw its naval forces from the Mediterranean if the United States did the same, but the proposal brought no positive response from Washington. Mr. Gorbachev said the offer was still valid.

"For us, the Mediterranean is no remote, out-of-the-way area," he said.

"It is close to our southern borders and is crossed by the only sea route linking our southern ports with the world's oceans. Naturally we are interested in routes of peace rather than those of war passing here," he said.

[In Washington, State Department spokesman Charles Redman said he could not offer a detailed reaction as he had not yet seen the full text of Mr. Gorbachev's speech.]

"I would only say we have important interests to protect in the Mediterranean and a fundamental commitment to our NATO allies, and any proposal of that kind would be viewed in the light of those basic

security considerations," Mr. Redman said.

[At NATO headquarters in Brussels, Belgium, spokesman Robin Stafford said: "Mr. Gorbachev seems to have addressed his remarks to the United States," Agence France-Presse reported.]

"It is well-known that the Soviet Union is still seeking to detach the United States from its Western allies and interests," Mr. Stafford added.]

On arms control, Mr. Gorbachev said a NATO summit in Brussels earlier this month to review strategy after the signing of the superpower agreement to scrap intermediate-range nuclear missiles had produced "contradictions, not to say absurdities."

"Some of the North Atlantic leaders obviously tried to link the unlinkable," he said.

"They are trying to link approval of the treaty on medium- and shorter-range missiles with a demand to compensate by a buildup of other arms, particularly on NATO's southern flank."

"They are trying to link the reduction of conventional armaments and the elimination of imbalances with a stubborn insistence on nuclear-deterrence dogmas."

Moscow has called for deep mutual cuts in conventional forces and for scrapping all nuclear arms by the year 2000.

**[Washington Post, Mar. 17, 1988]
SOVIET MILITARY CHIEF CALLS FORCES DEFENSIVE**

BERN, Switzerland, March 16—Soviet Defense Minister Dmitri Yazov reportedly told his U.S. counterpart, Frank C. Carlucci, in their first full dress meeting here today that Soviet military doctrine has always been defensive rather than offensive, implying there was no need for changes in strategy to reassure the West.

The U.S. official describing Yazov's contention said it did not chill this first of a kind exchange between the two top defense officials, even though Carlucci had said before the meeting started that he was looking for explanations and evidence of a more moderate Soviet military doctrine.

Soviet leader Mikhail Gorbachev, among others, had raised the hopes of Carlucci and other U.S. officials by writing in his book, "Perestroika," that "we believe that armaments should be reduced to the level of reasonable sufficiency; that is, a level necessary for strictly defensive purposes. It is time the two military alliances amended their strategic concepts to gear them more to the aims of defense."

What weapons and doctrine represent defense rather than offense traditionally has been blurred by the battlefield realities known to such combat veterans as Yazov. Tanks and artillery, which Carlucci has said he wished the Soviets would reduce in number, can be used to defend or

attack. Defensive doctrine, including the U.S. Army's "Airland Battle," calls for quick, offensive attacks against the second and third echelons of an invading force.

Despite confusion over what the Soviets mean by such terms as reasonable sufficiency, Pentagon spokesman Dan Howard, who attended the closed discussions, said that Yazov and Carlucci moved through a long agenda, ranging from Nicaragua to nuclear weapons and the antiballistic missile (ABM) systems designed to stop them.

Howard said the discussions have been "very positive, cooperative, candid."

Yazov started off the morning discussions with a joke about the very small room in the U.S. Embassy here where they are being conducted. "Although we have close quarters, we shouldn't quarrel," he said. Howard said this provoked laughter in the room and helped smooth the way for the frank discussions, which lasted until 12:45 when Yazov and Carlucci went together to the U.S. ambassador's residence for lunch and further discussion.

Howard said that Yazov stressed at the beginning of the talks that the Soviets "wanted to have useful discussions without having the pressure to arrive at some sort of agreement."

Carlucci, who had said in advance

of today's meeting that he would ask Yazov to have his government apologize for the fatal shooting of U.S. Army Maj. Arthur D. Nicholson in 1985 in East Germany, did not raise the subject until the afternoon session, according to Howard.

The spokesman declined to reveal Yazov's response.

Yazov and Carlucci discussed ways to avoid such confrontations as the recent one in the Black Sea where two Soviet warships bumped two U.S. warships, on grounds that the American vessels were intruding in the territorial waters of the Soviet Union. The U.S. government countered that its ships were exercising the right of innocent passage.

Howard would not say whether the two defense leaders had reached an agreement on ways to avoid a repeat of that incident and other U.S.-Soviet military confrontations.

Yazov and Carlucci did find common ground in the desire to increase military contacts, including the possibility that U.S. and Soviet military leaders would lecture at each other's war colleges in hopes of broadening understanding of the issues that divide the superpowers.

Howard said the two leaders gave their varying views of events in Afghanistan, Angola, Cambodia, Korea and Nicaragua, but he would not reveal whether any understandings were reached.

**[Washington Times,
Mar. 17, 1988]
REAGAN SCIENCE ADVISER
TESTIFIES ON INF ACCORD**

The United States should pursue a ballistic missile defense program that includes new defenses against weapons banned under the intermediate nuclear forces treaty to discourage Soviet cheating, the White House science adviser said yesterday.

Adviser William R. Graham and several prominent defense experts testified before the House Republican Study Committee on Soviet compliance with arms control agreements. The science adviser said the U.S. intelligence community has "a good chance" of detecting any Soviet cheating on the INF accord.

But William Van Cleave, a conservative defense specialist, said arms agreements since the 1960s have contributed to a shift in the military balance in favor of the Soviet Union.

And Frank Gaffney, a former Pentagon arms control official, said he believes the Senate should not ratify the INF treaty until provisions are made to deal with potential Soviet violations.

**[Washington Times,
Mar. 17, 1988]
HERITAGE'S HARD LINE**

Herb Berkowitz, public relations honcho for the Heritage Foundation, called to dispute our report on an alleged memo floating around Heritage asking that inquiries

about the INF treaty be steered away from hard-liner Jim Hackett. Mr. Berkowitz said there is no such memo and the folks said to have issued it have never heard of such a thing. "I can't imagine the Heritage Foundation ever shying away from taking a hard-line position on anything," he said. And "Jim Hackett was never out of the circuit."

[New York Times, Mar. 17, 1988]
CARLUCCI CONFERS WITH SOVIET AIDE

BERN, Switzerland, March 16 — Defense Secretary Frank C. Carlucci met for 10 hours today with the Soviet Defense Minister, Gen. Dmitri T. Yazov. American officials said the talks produced no specific agreements but opened the way for an expanded military discussion between the superpowers.

By mutual agreement, officials of both sides declined to describe the talks precisely until Thursday, when each of the military leaders will hold a news conference.

"Everyone characterized it as a meeting that was positive and cooperative in tone, a good solid meeting," said an official who attended the talks.

Wide Range of Issues

Mr. Carlucci and General Yazov, who had met briefly once before when

Mr. Carlucci was the national security adviser to President Reagan, did most of the talking themselves as their accompanying aides listened. They covered subjects ranging from military doctrines and the positioning of forces in Europe to arms control; regional issues and the spending constraints on the two military establishments.

"On some subjects, they agreed to disagree," said the American official, who briefed reporters after the meetings. They were held at the United States Embassy in the Swiss capital before a working lunch, and in the Soviet embassy after lunch.

A final meeting is scheduled for Thursday morning.

The American participants said that despite the lack of specific agreements, the talks so far have been highly pro-

ductive and something of a watershed in Soviet-American relations.

Preventing Hostile Incidents

As he traveled to Bern, Mr. Carlucci said he hoped to begin a broad dialogue on military affairs, and to emphasize steps to prevent hostile incidents between the two superpowers.

While American officials did not outline any specific proposals made at the talks, they suggested that a new forum for discussing such incidents might be proposed.

Mr. Carlucci today asked the Soviet Union to apologize for the killing of an American Army officer in East Germany in 1985, but American officials refused to describe the response. The officer, Maj. Arthur Nicholson, was on a reconnaissance mission near a Soviet military installation when he was shot and killed by Soviet troops.

[Washington Times, Mar. 17, 1988]
NUNN'S STRATEGIC DEFENSE RECIPROCITY

Georgia Democratic Sen. Sam Nunn's recent proposal for a strategic defense against accidental or unauthorized nuclear missile launch ("Accidental Launch Protection System" or "ALPS") is a positive development and deserves serious consideration by the Reagan administration.

It demonstrates his acceptance of strategic defense as a legitimate part of national security and a recognition that it may be necessary to go beyond the ABM Treaty to incorporate an ALPS system into U.S. defense plans.

With less than 11 months to go in office, President Reagan has the opportunity to craft and articulate a strategic defense policy that enjoys bipartisan congressional support and strong public approval. Near-term deployment of a strategic defense system along the lines that Mr. Nunn has outlined should be an integral part of that policy.

Now is the time for the president to address the nation and chart the course on strategic defense for his successor to follow. Such a policy could be described as "Strategic Defense Reciprocity," and could be presented to the American people in the following manner:

1. U.S. defensive technology has made impressive gains and a near-term strategic defense is achievable. In fact, an effective strategic defense system to protect against an accidental or unauthorized missile launch can be deployed over the next five years.

2. A policy of effective reciprocity is made necessary by Soviet strategic defense activities. Over the past decade the Soviets have spent approximately 15 times as much as the United States in this field. The

United States cannot continue to allow Soviet strategic defense activities to proceed unilaterally, increasing the margin of Soviet advantage.

3. The Soviets have had a defensive deployment in place around Moscow which is being modernized and upgraded with 100 ballistic missile interceptor launchers and which may be fully operational later this year. This ballistic missile defense system already provides significant protection not only for certain Soviet missile complexes but for the population of Moscow and its environs.

4. Accordingly, the United States will deploy a defense consisting of ERIS and HEDI ballistic missile interceptors, initially at Grand Forks, N.D., and subsequently at the few appropriate sites to defend the rest of the nation against an accidental or unauthorized launch.

Finally, the president should note that this decision represents an important measure along the road to the comprehensive nationwide strategic defense envisioned by the Strategic Defense Initiative program. Full funding of SDI research would remain essential.

The logic behind this deployment option is compelling for both strategic and political reasons. For example:

- It can be deployed by the early to mid-1990s.

- It is consistent with, and supportive of, a policy of effective reciprocity.

- There is a significant infrastructure at the Grand Forks site that already exists and the United States has a reservoir of experience in ground-based ABM technology upon which to draw.

- It meets the administration's and Mr. Nunn's desire for an "insur-

ance policy" against accidental launch or third-country threat.

- Current technologies allow for a wider area of coverage than the ABM systems of the 1960s.

- A workable near-term strategic defense system would encourage continued support for the more thorough SDI program.

- It provides the United States with operational experience and the technical base upon which to form sound judgments about the prospects for a more comprehensive SDI defense.

- And it keeps pressure on the Soviets, telling them that the United States is not willing to remain defenseless in perpetuity while they continue to add to their offensive arsenal and violate the ABM Treaty.

There has been no more forceful and effective advocate of strategic defense than President Reagan. His personal commitment to strategic defense has been instrumental in winning public support for SDI. A positive decision on deployment before the president leaves office would assure support for strategic defense into the next administration.

In short, an initial ABM defense at Grand Forks would satisfy the criterion of reciprocity, protect U.S. strategic defense options for the long-term, be consistent with the ABM Treaty, add to the store of technical knowledge needed to weigh future SDI concepts, send a signal of strength and resolve to the Soviets, provide an insurance policy against accidental or third-party attacks and enjoy the support of the American people who wish to be protected from ballistic missile attack.

Mr. Nunn's proposal has already drawn the support of leading Republicans and Democrats, including for-

mer officials in the Ford, Carter and Reagan administrations. Of greatest significance in his proposal is the recognition that technologies currently exist to remove the threat of accidental or unauthorized ballistic missile launch. These technologies

should be removed from SDI program and deployed.

While debate over space-based SDI deployment is likely to continue, an ALPS system not only enjoys bipartisan support, but also enhances U.S. security.

It is now up to the president to offer a program that galvanizes this support into the next decade, and begins the process of translating vision into reality.

[New York Times, Mar. 17, 1988] ISRAEL'S A-ARMS: A SACRED COW

WASHINGTON — When India's Prime Minister, Rajiv Gandhi, and Pakistan's President, Mohammad Zia ul-Haq, visit the United States, the press intensively questions them about whether their countries have or are building nuclear weapons. However, when the Israeli Prime Minister, Yitzhak Shamir, visits Washington, as he is now, the issue of Israel's possession of nuclear arms never seems to come up, even though Israel's nuclear capabilities are thought to be far more advanced than either India's or Pakistan's.

Moreover, the closeness of American-Israeli ties and the greater volatility of the Middle East mean an Israeli nuclear threat during a future crisis would be far more likely to trigger a United States-Soviet confrontation than similar action by one of the emerging nuclear powers in South Asia.

Still, the American press remains surprisingly incurious. Not a single question was asked about Israel's nuclear affairs at Mr. Shamir's White House press conference when he last visited Washington, in November. Nor was the matter broached when he was interviewed on TV.

As a guide for the seemingly perplexed, here are some questions about Israel's nuclear activities that might be posed to Mr. Shamir in what remains of his current journey, which takes him to New York City next week.

In July, Israel tested an intermedi-

ate-range missile, thought to be an upgraded version of its nuclear-capable Jericho II. American sources said the missile can reach the Soviet Union; within days of the test, Moscow radio warned Israel about deploying the rocket.

Why does Israel need such a long-range missile? Is it hoping to deter Moscow from intervening in a future Arab-Israeli war, as some Israeli leaders have hinted off the record? Has the United States attempted to dissuade Israel from building this system, the way it discouraged Israel from building the controversial Lavi advanced fighter?

Mordechai Vanunu, the Israeli nuclear technician who disclosed details of Israel's nuclear weapons program to a London newspaper in 1986, is now on trial in Israel for treason. The prosecution in the secret proceeding says Mr. Vanunu damaged Israeli national security.

Does this mean that Mr. Vanunu was correct in claiming that Israel is producing plutonium for bombs at its classified Dimona nuclear complex, and in claiming that Israel is producing material for a modified hydrogen bomb there? Does this mean Mr. Vanunu's photos of a model of an Israeli atomic bomb are genuine? If his claims are unfounded, why is he being prosecuted?

Mr. Vanunu says he was lured to Rome and abducted by Israeli intelligence agents, who brought him to Israel to stand trial. Is this true? How

did Mr. Vanunu get to Israel? Did Italy help? Did the United States object?

In 1959, Norway supplied Israel 20 tons of heavy water, needed to operate the Dimona reactor. Israel pledged to Norway that the material would be used only for peaceful purposes, and it gave Norway the right to inspect the material to verify this. Now Norway wants to know how its heavy water was used, but Israel will not allow the inspections it agreed to.

If Israel has not been producing plutonium for bombs at Dimona with the Norwegian material, why won't it allow the inspections? If it has been misusing the Norwegian material, how does it justify this breach of a key nonproliferation accord? How has Washington reacted? Is it pressing Israel to come clean?

Is Israel's nuclear program an issue in American-Israeli relations? Are President Reagan or Secretary of State George P. Shultz raising Israel's recent nuclear advances in the current round of talks with Mr. Shamir? Was the issue raised privately last November? When was the last time top-level American officials objected to Israel's apparently continuing nuclear buildup?

Finally, the press should ask itself a question: Why has it been so reluctant to tackle this issue? Unless there is greater public exposure, it is hard to imagine intensified diplomatic efforts to restrain Israel's growing nuclear capabilities.

legislation in order to dispose of U.S. property lies in this question of "concurrent" versus "exclusive" power.

In his recent paper titled "The Treaty Power and Congressional Power in Conflict: Cession of U.S. Property in the Canal Zone to Panama," Kenneth Merin, Legislative Attorney of the American Law Division of the Library of Congress, makes the point that, "The Constitutional issue is not, or should not be, involvement of the House of Representatives in treaty negotiations," but "whether, by virtue of article IV, Congress exercises exclusive or concurrent power over the disposal of territory and property."

Presumably, if it could be proved that Congress' power is concurrent, the proposed Panama Canal treaties would be complete and self-executing if ratified by the Senate. If, on the other hand, the weight of the evidence is for the other view—that the Congress holds exclusive power over the disposal of territory and property—then Senate ratification is not enough. Implementing legislation by the House of Representatives would be required. I believe that careful examination of legal cases as well as historical precedent leads one to the inevitable conclusion that Congress does hold exclusive power and that implementing legislation will be needed in the case of the Panama Canal treaties.

Now, the executive branch may cite as evidence to support its position the treaties we entered into in the last century with a number of Indian tribes. In these treaties we appeared to be ceding land to the tribes without requiring implementing legislation. The practice was stopped altogether more than a century ago with the passage of the Indian Appropriations Act of 1872, but a closer look at the Indian land treaties shows they were very different from this proposal to turn over U.S. property in the Canal Zone to a foreign government.

The American Indian tribes have always had a unique relationship with the Federal Government and have not been considered foreign nations. When lands were turned over, the tribes were usually given "right of occupancy," with ultimate authority over the lands still to be held by the Federal Government. Even in cases where the treaties gave the tribes the land in fee simple, the Government reserved the right of eminent domain and sometimes the right to hold veto power over transfer of the land to third parties. Neither of these reservations would apply, of course, when turning property over to a foreign nation, such as Panama.

Other arguments will be put forward to support the contention that implementing legislation is not needed in order to dispose of our property in the Canal Zone. One may have to do with treaties which involved boundary claims. The United States has entered into boundary settlement treaties several times in its history, swapping pieces of land here and there without any implementing legislation from Congress. Again, on closer examination, each settlement of a boundary dispute turns out to have been a matter of recognition of the rightness of the claim of our Nation or the other one involved, and not a matter of outright cession of territory.

RYUKYU ISLANDS

The case of the Ryukyu Islands might be cited, too. We turned these

PANAMA CANAL TREATY (Hearing) TESTIMONY OF HON. RONALD REAGAN, FORMER GOVERNOR OF THE STATE OF CALIFORNIA

Governor REAGAN. Mr. Chairman and members of the subcommittee and Senator Hayakawa, let me express my gratitude for Senator Hayakawa so graciously coming and introducing me here. It is true that we shared some battles together.

I could also say in his behalf that he followed a succession of acting presidents of San Francisco State in those hectic days, all of whom suffered combat fatigue until he arrived. At that time, the fatigue was transferred to the riders and disturbers; and the people of California are very grateful to him for what he did; so am I.

Mr. Chairman and members of the subcommittee, thank you for inviting me to appear before you this morning to testify. You are concerned, as I am, with constitutional and other issues arising out of the proposed Panama Canal treaties, and I appreciate this opportunity to share my views with you.

It is necessary first to comment on the constitutional issue. Even though I am not a lawyer myself, I can appreciate the hours of research lawyers put into these matters. In reading about the Panama Canal, its history and its operation, as well as its national and international significance, I found myself spending more and more of my time studying the legal cases and opinions which bear on the canal and our relations with Panama. There is a plentiful supply of logic and common sense in these cases and opinions.

The executive branch argues that the President's treaty-making powers under the Constitution are enough to dispose of U.S. territory and property without any implementing legislation by the Congress, and that transfers of property as specified in a treaty become self-executing once the Senate ratifies the treaty. Historically, Congress has held to a different view, though there have been enough ambiguities over the years to revive the argument with each new case.

At a glance, the U.S. Constitution does seem to be ambiguous about the matter: article II, section 2, clause 2 gives the President authority to negotiate and enter into treaties.

Article VI, section 2 declares that treaties are the supreme law of the land.

But, the Constitution also places a congressional act and a treaty on the same footing.

Article IV, section 3, clause 2 grants "The Congress," meaning both houses, the power to dispose of territory and other federal property.

Treaties, of course, must not be in violation of the Constitution which grants various powers to the President, the Congress, and the States. All of these, at face value, are limited, but in reality they are subject to the limitations imposed by other sections of the Constitution, in the form of specific prohibitions, or by the fact that the Constitution vests concurrent or exclusive power in certain units of the Government.

Whether the proposed Panama Canal treaty needs implementing

rights and responsibilities in this matter. If our foreign policy is to be fully effective, cooperation of the Congress is a vital ingredient.

BRIEFED BY AMBASSADORS BUNKER AND LINOWITZ

The constitutional issue is of great importance, but so is the security of the United States and Western Hemisphere.

I have not yet received a copy of the treaty draft to read, but members of my staff and I have been briefed on its contents by Ambassadors Bunker and Linowitz and other members of the U.S. negotiating team. I believe the Ambassadors worked earnestly and hard under difficult circumstances and there are some commendable ideas contained in the proposed treaties. But, I also believe they have an overriding, indeed, a fatal—flaw. They proceed from a false premise, that we can expect reliable, impartial, trouble-free, secure operations of the canal in the future by relinquishing the rights we acquired in the 1903 treaty.

In that treaty we acquired the rights of sovereignty over the Canal Zone, to the exclusion of the exercise of such rights by the Republic of Panama.

We did not acquire the Canal Zone under the same circumstances as we did the Louisiana Purchase or Alaska. Many people think we did, but the fact is that the Canal Zone is unique.

It seems clear, from the language of the 1903 treaty, that the intention of our Government was to acquire a firm, unshakable legal basis, for building, operating and defending the canal. We did not acquire the Canal Zone for the purpose of extracting minerals, tilling the soil or establishing a mercantile colony. It was a single purpose enterprise, but the important thing to remember is that only one nation can exert sovereign rights over a given piece of land at one time; and the 1903 treaty made it clear that we would do so in the Canal Zone and that the Republic of Panama would not.

To this day, it is those rights of sovereignty which undergird our ability to operate and defend the canal. We cannot be kicked out summarily on the whim of some Panamanian government.

NATIONALIZATION OF CANAL POSSIBLE

Once these rights are removed—and they will be removed immediately if the new treaties become effective—there is nothing to prevent a Panamanian regime from deciding one day to nationalize the canal and to demand that we leave immediately. That would present us with the very thing the treaty advocates say we want to avoid: confrontation, or its alternative, unceremonious withdrawal in the face of an arbitrary demand.

For more than 60 years we have operated the Panama Canal efficiently, impartially and on a not-for-profit basis. The nations of the Western Hemisphere have come to rely on our stable presence there to make sure that their commerce would get through unhindered.

We cannot be certain, if these new treaties go into operation, that key personnel now operating the canal will not leave a great deal sooner than expected, thus bringing into question the smooth operation of the canal. We cannot be certain that, as the American presence

islands back to Japan in 1972, following ratification of a treaty without implementing legislation. In the 1954 peace treaty with Japan, however, the Japanese did not renounce their right or title to the Ryukyus, as they did to certain other pieces of territory; so that when the time came to discuss the matter further there was no serious question of ownership.

So much for the flaws in the arguments that are put forth to support the idea that the new Panama Canal treaties can be used to turn over U.S. property without special implementing legislation. The strongest evidence to support the opposite assertion is the past record of disposal of U.S. property in the Canal Zone itself.

I have read thousands of words of newspaper and magazine copy and heard many television and radio broadcasts about these cases in the news media. Yet, their significance cannot be underestimated in establishing that legislation will be required of Congress because of its exclusive power to dispose of territory and property.

Back in 1932, our government wanted to build a new legation building on land inside the Canal Zone. It is not proper, of course, to build a legation on one's own territory. So, a bill was passed by Congress to authorize the Secretary of State to adjust the boundary between the Canal Zone and the Republic of Panama in order to turn the land for the legation building over to Panama.

Ten years later, the Senate debated approval by joint resolution of an Executive agreement to transfer some land and property in the Canal Zone to Panama. The very question of whether this should be done by treaty—requiring only Senate ratification—or by Executive agreement—requiring consent of both houses—was hotly debated. The measure was approved, underscoring Congress article IV powers.

Early the next year, 1943, the House Committee on Foreign Affairs held hearings on the land transfer in question. Its report adds weight to the argument for requiring implementing legislation in the current case. It said:

Congressional approval of the Executive commitments to Panama is sought in the form of legislation because there is involved: a, a disposition of property of the United States; and, b, an appropriation of funds, both requiring an exercise of the legislative power. Independently of the treaty-making power, Article IV of the Constitution provides that "the Congress shall have the power to dispose of the territory or other property belonging to the United States."

Our 1953 treaty with Panama provided for transfer of real property, stating that some would be transferred immediately and the rest with congressional authorization. During the hearings on the treaty, however, a State Department representative testified that the legislation would be needed in order to implement the transfer of all the property in question.

A number of Supreme Court decisions over the years has reaffirmed the exclusive nature of Congress power to dispose of territory and property under article IV of the Constitution.

In the face of all the historical and legal evidence indicating that implementing legislation from the Congress will be necessary in the case of U.S. property in the Canal Zone, it is hard for me to believe that the executive branch would want to circumvent the Congress

through the canal, it offers inestimable strategic advantages to the United States, giving us maximum strength at minimum cost.

By contrast, the Panama Canal, under control of a potential adversary, would become an immediate critical problem and prove a serious weakness in the overall U.S. defense capability, with enormous consequences for evil.

Our continued presence at the canal inhibits potential adventurers from trying to make international trouble there far better than would a piece of paper granting us the right to return after we had once departed.

It is no secret that the Soviet Union believes control over some 16 vital seaborne "choke points" means dominance of the world's oceans. Our presence at one of the busiest and most important of those "choke points" is a definite deterrent.

There is another factor at work which could be harmful to the security of the hemisphere because it could further question our willingness to maintain a leadership role. Let us remember that for much of the time while these treaties were being negotiated, we were doing so—especially in the last 2 years—under repeated threats of violence. True, the threats slackened off this year, possibly because General Torrijos saw victory ahead. Some may believe the threats were a bluff, but the fact remains that we did continue to negotiate and, apparently, made concessions in the face of threats. The President seemed anxious to speed up and bring the matter to a conclusion in spite of his previous declarations that he would never relinquish effective control of the Canal.

If we accede to a treaty under such circumstances, will this mark the end of further demands? If there are, indeed, radical guerrillas in Panama—as we are told—ready to blow up the canal if we don't sign a treaty, what assurance do we have that they will be satisfied with the terms of these treaties? Already, the Government-sponsored student federation in Panama has issued a manifesto supporting the treaties, but also indicating that "the struggle will continue" so long as there is any American presence at the canal. If they should press Torrijos to ignore these treaties, would we not hear the same arguments from the same people for giving in to those new demands that we are hearing today?

Whether or not these treaties ever go into effect, we can expect trouble from leftist elements in Panama and elsewhere. Yes, failure to ratify the treaty will offer an excuse for demonstrations and riots in Panama and very possibly in the United States. And, behind the scenes, the Russian Bear will do all it can to destabilize the security of the hemisphere and cause a global whirlwind of unfavorable press aimed at us. It is not because we didn't ratify the treaty but because that is their normal procedure where we are concerned.

The treaty advocates say failure to ratify and implement these treaties will harm our relations with all of Latin America. Is it possible they believe they are betting on a sure thing? Historically, our Latin American neighbors have felt the need to be somewhat on guard against a United States which to them is the "Colossus of the North." A natural reaction has been to vote as a group on inter-American matters in international forums. This does not mean, however, that all Latin American nations have identical interests or think alike. As a

withdraws from the Canal Zone, new demands for accelerated withdrawal will not be made under threat of violence. We cannot be certain that outside influences hostile to hemispheric security will not make their presence felt much greater than before in Panama. We cannot be certain that Americans operating the canal will not be harassed by an unstable and power-hungry dictator.

Fidel Castro, whose interest in exporting for the current military regime in Panama. And, just this summer, a delegation from the Soviet Union visited Panama to look into trade, investigate possible plant locations and even the possibility of opening a bank in Panama. It should never surprise us that whenever the United States withdraws its presence or its strong interest from any area, the Soviets are ready, willing and often able to exploit the situation. Can we believe that the Panama Canal is any exception?

Although the proposed second treaty would continue indefinitely beyond the expiration of the first one in the year 2000, the question must be asked: Does it really provide what it says it will, which is the unilateral ability of the United States to step in to defend the canal if its neutrality is threatened?

I believe we will make a very grave mistake if we let ourselves be inveigled into debating what the treaties do or do not say. Yes, on paper, we are told we have the right to step in—even after we have turned over control and removed our forces. But will we?

We are told by the treaty advocates there will be unpleasantness and trouble if we don't accept these treaties. The same people then assure us we can march back in if there is trouble. But once we have said, in effect, "We don't want trouble; we'll give up the canal," have we not also said, "If the government of Panama, encouraged by leftist allies, plays fast and loose with the treaty," we'll decide—since we're giving it no anyway—"why bother?"

I don't believe such a concern is unjustified, given the recent history of our Nation. We have shown a reluctance to meet the responsibility of free world leadership, even on occasion to abandon allies.

We have been told the canal is declining in terms of military importance, and yet all but a handful of our Navy ships can transit the canal. The great bulk of material bound for our forces in Vietnam went by way of the canal. And who can say what shape our Navy will take 20 or 30 years from now? It may very well consist in this missile age of small, fast ships relying on quick accessibility from one ocean to another.

JOINT CHIEFS OF STAFF

President Carter cites a statement by the Joint Chiefs of Staff that the treaty is satisfactory in terms of our defense needs. I mean no disrespect to those fine men. Yet, in a recent letter to the President, four former Chiefs of Naval Operations—now retired and, therefore, free to speak out on this issue—underscored the importance of keeping active control of the canal. Admirals Arleigh Burke, Thomas Moorer, Robert Carney, and George Anderson said, in part:

As long as most of the world's combatant and commercial tonnage can transit

dreams were interrelated. Many in our country thought the canal should be in Nicaragua. The Panamanians knew their only chance to have independence and prosperity lay in the canal being built in Panama. And so it was that Panama ratified the Hay-Bunau-Varilla Treaty months before it was ratified by our own Government.

We have nothing to be ashamed of and much to be proud of. We created one of the great wonders of the world, and it is doubtful any other nation could have done so. More than that, however, we have managed the canal fairly for all nations at no profit to ourselves and with great economic benefit to Panama. Not only did we deal fairly with the governments of Panama and Colombia, we also bought every piece of privately owned land in the Canal Zone in fee simple from the individual owners. And may I point out the Canal Zone is not flanked by Berlin walls. The people of Panama can go in and out of the zone freely at all times.

But times change and the Panamanians have a growing feeling of nationalism. We, on the other hand, cannot weaken our ability to provide security for our Nation and the entire Western Hemisphere. Can ways be found to satisfy some of their national aspirations without compromising our ability to meet security requirements?

Though I believe that the basic flaw of the proposed treaties requires that they not be ratified, there are alternatives we should examine.

Let us explore, for example, broadening participation in canal policymaking. The proposed basic treaty calls for a governing board with five United States and four Panamanian directors until the year 2000, when it expires. An alternative to consider would be a board comprised of a group of permanent U.S. seats, another group of permanent Panamanian seats and a third group of term seats to be rotated among canal-using nations. Another possibility might be to have that third group made up of representatives of our neighbors, the nations of North and South and Central America.

The proposed treaties call for an increase of the money we pay Panama annually from \$2.3 million to an average income from canal operations of as much as \$80 million. There is no assurance this would benefit the Panamanian people. A modernization program—the Termini-Lake Third Lock plan—could definitely help the people. It would be approximately 10 years in the building and cost between \$1 and \$2 billion. We could make certain that Panamanian workers and contractors were engaged extensively in the program which would directly benefit the people and the economy of Panama.

Such a modernization of the canal would make it capable of handling all but a few supertankers. It could have important implications for the cost of moving Alaskan oil to gulf coast refineries. Then, too, increased speed of transit and general traffic would mean increased toll revenues which could further benefit Panama through a sharing formula.

There are two alternatives for discussion. I am sure there are other ways for the United States to do what it can for a neighbor, without abdicating its own responsibility to permanently provide an open waterway for all the world's shipping and a guarantee of security for the Western Hemisphere.

matter of fact, a surprising number have privately expressed concern about our possible withdrawal from the canal.

Frankly, I believe we can question not only the warnings about possible deterioration in our relations with Latin America if we don't ratify the treaty, but also the glowing promises of a new era if we do.

U.S. LACKING COHERENT POLICY

The fact is we do not now have a coherent policy toward our Western Hemisphere neighbors. And we should because, over the next few decades, our continued prosperity—possibly even our survival—will be closely linked to that of our neighbors within this hemisphere. I do not believe these treaties are a substitute for such a policy. I do believe that the United States, negotiating from strength and not weakly yielding legitimate rights and responsibilities out of a desire to avoid unpleasantness, can be truly helpful to the people of Panama and to all the hemisphere.

Some of our neighbors need aid we are in a position to give. With others, the need is for increased technology and trade; and with some, unhindered access to capital for needed development. Once our Government recognizes that we must all sink or swim together maybe we'll stop some of our self-defeating practices. It is self-defeating to throttle a friendly nation's ability to obtain capital because it doesn't run its internal politics precisely as we would like. It is self-defeating to keep a neighbor from buying weapons for its police force because someone in Washington sees terrorists as mere political dissidents. Thus, we encourage more terrorism and hurt a Nation's chances for economic recovery.

Our neighbors in Latin America ask that we learn enough about them to have some understanding. Sometimes, their problems are similar, sometimes different but each nation is deserving of understanding.

What especially do the Panamanians want? That isn't an easy question to answer since there is no elected government, nor can we be sure a plebiscite of the people on the treaties would give an accurate answer, in view of the nature of the Government.

PANAMA HAS HIGHEST PER CAPITA INCOME IN CENTRAL AMERICA

We are left with some educated guesses about the wants of the Panamanian people. Thanks in large part to the canal, the Panamanians have the highest per-capita income in Central America and the third or fourth highest in all of Latin America. But their economy is near bankruptcy. They are plagued by inflation and unemployment while natural resources lie undeveloped.

Contrary to what has been implied about my own position, I do not believe that in rejecting these treaties we should simply demand the status quo and not seek answers to problems regarding our relations with the people of Panama.

Early in this century, we realized our dream of a waterway connecting the two great oceans. Panama, then a neglected province of Colombia, also realized a dream—to be free and independent. The two

FREEDOM HOUSE DATING

In conclusion, I would like to touch on the subject of human rights. The concept of individual human freedom is deeply ingrained in us here in the United States. Though I believe the best way to help human rights flourish elsewhere is to set the best possible example in our own country, I realize that some idealists believe we should be more assertive in getting others to follow our example. Now that is a high standard of sensitivity to human rights has become a cornerstone of our Government's policy, I think it is not only fair but mandatory to raise the question with regard to the repressive regime in Panama with which we have been negotiating. And, I do not accept our negotiators' effort to characterize it as merely authoritarian.

Human rights criticism, public and private, has been leveled at a number of nations in the Western Hemisphere which have always been friendly toward us; yet I cannot recall a single word of criticism by any representative of our Government toward Panama in this regard. Yet, Freedom House, which is recognized internationally as an impartial monitor of the status of human freedom, rates Panama as one of 67 nations in the world that is "not free." They rate 42 as "free" and 48 as "partly free." In its annual survey, Freedom House rates political rights on a scale of 1 to 7, with 7 being least free. They rate Panama as a 7. They rate civil rights on a similar scale, and Panama receives a 6.

Documents have been widely circulated in this country, with names, dates, places, and details of alleged violations of human rights by the regime in Panama. I, personally, have received a letter from a Panamanian businessman who was forced, at gunpoint, from his automobile some months ago and sent into exile because he has dissented.

Can we afford a double standard in this most fundamental of areas? I don't think so, for to do so says to the world that we are cynics, using the issue of human rights only as a tactic to produce specific political results. Worse, it may say to those who hold out hope of reduced oppression and ultimately the restoration of freedom that Americans are, when you get right down to it, hypocrites. The recent history of our negotiations with the Panamanian dictatorship does nothing to dispel such concerns. So, I leave you with this question: Can we separate canal negotiations from human rights when those rights as we know them are severely limited in Panama?

Finally, what conclusions are to be drawn about these treaties? Let me reiterate that: The Panama Canal is vital to our security and that of the Western Hemisphere; we provide the one sure guarantee that the commerce of the world will have continued access to this waterway; the rights of sovereignty we hold in the Canal Zone are the foundation of our ability to remain there to operate and defend the canal; the proposed treaties relinquish those rights and do not provide adequate guarantees against future threats to the canal; alternatives should be sought which recognize the aspirations of the Panamanian people, without compromising our ability to meet security requirements.

Thus, the treaties as proposed should not be ratified. Furthermore, it seems clear from legal opinions and historical precedent that the

ratification process will require implementing legislation by the Congress.

Thank you again for inviting me to appear before you.

Senator ALLEN. Thank you very much, Governor Reagan. Your remarks constitute a very fine and forceful statement.

Will you permit questions by the subcommittee?

Governor REAGAN. Yes, sir.

Senator ALLEN. The members decided that we would impose a 10-minute period for asking questions and answering them. If that does not give sufficient time, then we would have a second round of 5 minutes each.

I am going to forgo for the time being my opportunity to ask questions. I am going to ask Senator Hatch if he would start.

Senator HATCH. Governor, I want personally to express my appreciation for your taking time to chat with our committee in trying to elucidate some of the more important aspects of the issues involved in the Panama Canal.

You have indicated that the Russians have been to Panama. Do you know when they were there?

Governor REAGAN. Yes; it was in the month of July. They were there for over a week.

Senator HATCH. Just a month or so ago?

Governor REAGAN. Yes.

Senator HATCH. They were negotiating various commercial agreements and so forth—

Governor REAGAN. And talking about locations for plants and so forth. Some, as I believe, were actually discussing buying, at way above the world price, sugar. They were talking about putting in processing plants for sugar refining.

Senator HATCH. They asked about buying 50,000 metric tons of sugar at almost double the world price or double the world price.

Do you have any idea as to why the Russians would do this?

Governor REAGAN. Oh, I have a very clear idea.

Senator HATCH. Please give us the benefit of your thoughts.

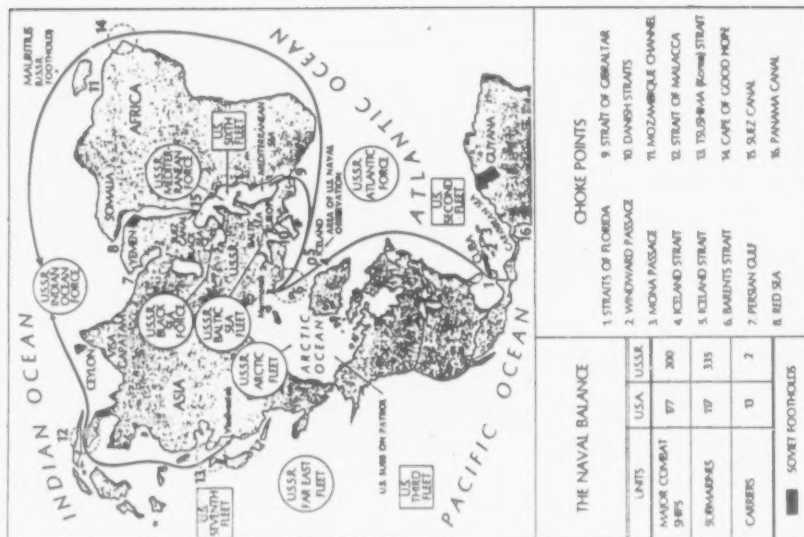
Governor REAGAN. We could go back, if we wanted to, and quote Lenin; he said that they would take Eastern Europe. They would organize the boards of Asia. They would then move into Latin America. The United States would be surrounded, and they would not have to take it; it would fall into their outstretched hands like overripe fruit.

I do not believe there is any indication that they have ever changed in that overall strategic plan. They are moving into Latin America first by way of Cuba. That has been very evident. I think that does pose a considerable threat to us.

SEA LANE "CHOKE POINTS"

Senator HATCH. In your statement today, you say that there is no secret that the Soviet Union believes control of over some 16 vital sea lane "choke points" means dominance of the world's oceans, and that our presence at one of the busiest and most important of those choke points is a definite deterrent.

WORLD MARITIME CHOKE POINTS AND U.S. AND SOVIET FLEETS



Source: Author, from article published in the U.S. Naval Institute Proceedings, January 1977.

Do you have any opinion with regard to the rest of the world's choke points as to who really controls them today?

Governor REAGAN. Yes; I think, if they don't already, they are very close.

They have a simpler problem than we have. Our naval problem is one of keeping the sea lanes open. It is absolutely vital to us. The Soviet Union, in the event of hostilities, has the simple point of simply choking off those sea lanes. To do that, instead of foraging out in the open ocean, you simply have to intercept shipping in those various trade lanes.

Once upon a time in the history of the world, there were only about five such lanes. They were around the short east-west route around the world. They were the Panama Canal, the Straits of Gibraltar, the Suez Canal, the Malaguanat, and the Malacca Straits. Now, of course, with the industrialization of other countries such as Japan, there are north and south lanes. There are lanes up in the North Sea and so forth.

Their maneuvers, the largest naval maneuvers ever held by any nation, some time ago revealed that their strategy was based on the interception at those points.

Senator HATCH. One of the best arguments—at least those who are proponents of the canal—offered is that the treaty has a guarantee of neutrality.

Don't you find that a very good point?

Governor REAGAN. No; I—

Senator HATCH. Or do you find some matters of hazard with regard to that?

Governor REAGAN. Under that neutrality clause, guarantees to all nations in peace and war are given to use the canal. In other words, we have the spectacle of possible hostilities in which nations at war with the United States would be guaranteed use of the Panama Canal.

Senator HATCH. Are you aware, Governor, that there was a guarantee of neutrality with regard to Suez before it was shut down?

Governor REAGAN. Yes. And I am aware that it was a phasout plan that was to meet some of Nassar's demands on his theories of nationalism. The British and the French had a phasout plan of withdrawal. Two years after the treaty was signed, Nassar walked in and took over the canal and did end neutrality with regard to Israel.

It is what I was referring to here. What would we do if we were out and faced with the prospect of coming back? Britain and France took a look and said, "Well, we were going to give it away anyway; why bother?"

Senator HATCH. Some persons have indicated that this issue is a Republican issue and that the filibuster, if it occurs in the Senate, would be a Republican filibuster. Do you have any comments on that?

Governor REAGAN. I have never seen an issue more bipartisan. I just received a newspaper clipping from a paper in St. Louis, Mo., that has been running a poll on its front page with a coupon to be clipped out and sent back to the paper. In the first few days of the running of that poll, it came back 5,400—I believe—votes against rat-

[Map of aforementioned choke points follows:]

ification and 71 for. I do not think that in St. Louis, Mo., that the Republicans outnumber the Democrats by 5,000 to 70.

Senator HATCH. Do you have any comments about the recent Gallup poll showing that the percentage margin may be somewhat more narrow?

Governor REAGAN. I do. I have not seen the exact wording, but I heard from someone experienced in polling that the question asked, as sometimes they are in polls, including in effect, editorial comment. It was not a plain question of do we or don't we give up the canal. That editorial comment could have influenced that vote.

Senator HATCH. Governor, you and other witnesses have reminded this committee that there is no historical precedent for bypassing the House of Representatives in the present situation. In all previous agreements between the United States and Panama where property transfers were involved, the State Department always sought authorization and implementing legislation from both Houses of Congress. Yet, in this instance, the administration appears to be deliberately circumventing the House.

Why, in your judgment, is the administration doing this?

Governor REAGAN. Well, because I think the counsel and the advice coming from the State Department has been for giving up the canal for a number of years. I think there was an opinion in certain levels in the State Department, long before negotiations even were underway that we should follow the course that now we have followed. I think that, if the strategy of not having to get congressional approval were to be successful, they believe they would have a better chance of getting ratification.

Senator HATCH. The President is, in my view, trying to pressure the American people into believing that we run great risk if the treaty is not ratified. What, if any, do you perceive to be those risks?

Governor REAGAN. I think we are talking about the possibility of disturbances, riots, sabotage, and so forth in the Canal Zone.

Senator HATCH. I have another question in that, so you can answer it all at once.

Others, including myself, are advocating that, because of the diplomatic blunders here, we are likely to run some serious risks whether the treaty is ratified or not.

Governor REAGAN. That is right.

Senator HATCH. Please cover both sides of that question.

Governor REAGAN. I think that there will be trouble. I think some of these fomenting the trouble—I referred to a resolution of one student group. They have already implied that, while they are willing to have Torrijos sign the treaty, they will continue to make trouble as long as there is an American presence.

CAN'T HAVE IT BOTH WAYS

But I think the main question that we have to face is this. The treaty advocates cannot have it both ways. They cannot tell us that it is wise for us to sign the treaty—meaning getting out of the Canal Zone, getting out of the operation of the canal eventually—because there will be trouble if we don't. But then they promise us at the same time that it

is all right because in the future, after we are gone, if anyone should in any way violate the treaty or hinder our use or neutrality, we have the right to go back in.

Can you picture an administration, once out, then suddenly mobilizing and sending the military forces of the great colossus of the North down to Panama because they have done something in violation of the treaty?

As I say, which way do they want that argument?

Senator HATCH. Do you think there is any possibility if we ratify this treaty that we will be shut out from the use of the Panama Canal?

Governor REAGAN. I think the possibility is there. I do not think we have the guarantees of security that we have now.

Senator HATCH. If we are out of Panama in obedience to this treaty, what do you think the opportunities will be for us to come back in and enforce our rights?

Governor REAGAN. Well, I think they are much less; and I think there is a much greater danger there than there is for us if we stay right where we are.

Senator HATCH. Can you tell us why you think that's a great danger?

Governor REAGAN. The past record of the canal. If you look at it, we have heard all sorts of stories about sabotage. First of all, it is difficult for me to believe that the Panamanian Government itself would tolerate the sabotage of something that amounts to 25 percent of their gross national product. It is their greatest economic asset.

Second of all, we have gone through four wars. In each one of those wars, the enemy had every reason in the world to try and block that canal. The Germans in World War I were even able to come into New York Harbor and create the great Black Tom explosion in New Jersey. In World War II, with the Pacific Fleet virtually destroyed, it must have been very tempting to our enemies to try to close that canal.

In the Korean and Vietnam conflicts, we were using it—as has been testified before this committee by Admiral Moore—for material shipment of the great bulk of war supplies. In a time of stress in the Mediterranean and the Middle East, in the midst of the Vietnam war, it was the presence of the canal that allowed us to place our tonnage in our naval forces so that we could respond quickly to a crisis either in the Pacific or in the Mediterranean.

The fact that, in wartime, with enemies wanting to close it down, it never has been closed down, it does not seem to me the canal is that subject to sabotage.

Senator HATCH. One of the biggest arguments offered really comes down to basically this argument about student uprisings and other disorders. There are about 4,700,000 people with only 1,500 trained as soldiers.

How do you answer the argument that this will show, by giving this canal, the greatness of America and that we are ending the colonialism of the past?

Governor REAGAN. Well, I think one of the great things that is wrong with this is the whole timing. In this particular era, I do not think that it is going to be taken as a great, magnanimous gesture.

Panama happens to have received the highest per capita aid from the United States of any nation on Earth. If, after all we have done for the

treaty, we have complete jurisdiction and control. Yet, I am told that Cuba has not been accepting the annual payment in recent years.

Do you believe the ratification of this treaty with regard to the Panama Canal will have an effect on the future of the Guantanamo Naval Base in Cuba?

Governor REAGAN. Well, it could in this case.

Again, if what we do is seen as weakness, withdrawing in the face of trouble, it could, Guantanamo is a different situation in that we lease. My understanding is that it is a lease in perpetuity. It is true that 16 years ago Castro ordered us out, it is true also that there are land mines and guns points at each other and barbed wire between Cuba and the Guantanamo base.

Guantanamo is, however, sovereign Cuban territory. We are talking about a lease. But in 16 years not one more has been made to remove us. Evidently Castro knows that if he tried to remove us by force, with our forces there, he would be in a confrontation with the United States.

The difference is here, in this treaty, that we ourselves are going to phase out. There will come a point in which we will not have any forces. We would be faced with the awful choice of whether to try to send them back.

The only thing that I could see about Guantanamo, Castro might see this as an opportunity now by saying, "Well, I am willing to risk forceful ejection of the United States," with the belief that there would be no further trouble from us and we would withdraw.

Senator SCOTT. Governor, would you share your thoughts with us regarding the suggestion that has been made that our relationship with the Third World will be damaged if this treaty is not ratified by the Senate? Do you see any damage with our relationship with the Third World?

Governor REAGAN. Well, I don't know how it could be damaged more. I don't know of a single instance where they have voted with us in the United Nations. Their hostility seems to be pretty evident.

I do not think we should settle for that. I think this is part of a much greater problem. That is, what is the foreign policy that recognizes this particular situation in the context of our relationships with the Latin American nations and with the Third World, and we go at it from strength, then I think we could improve those relations. Senator SCOTT. Governor, in your prepared remarks, you indicated you have not had an opportunity to see the treaty, although you have been briefed about it. We received copies yesterday.

Article 12 relates to a sea-level canal or a third lane of locks. It indicates that Panama and the United States may want to negotiate for a sea-level canal sometime in the future. It says that no new interoceanic canal shall be constructed in Panama during the duration of this treaty except in accordance with the provisions of the treaty.

Then it says that during the duration of the treaty that the United States shall not negotiate with third states for the right to construct an interoceanic canal on any other route in the Western Hemisphere except as the two parties may otherwise agree.

world, beginning with the Marshall Plan, we have not earned the love of these other nations yet. I do not think that just giving away a canal is going to do it.

I think that in the present era, in view of what we have done, there is a very grave danger that the world will not see this as a magnificent gesture. It will see it—and with some justification—as, once again, the United States, faced with the possibility of confrontation, backing away.

I think there could be a time when the United States—as I said here about alternatives—could negotiate from strength. But, we have not been negotiating. Ever since President Johnson's statement in 1964 in which he literally gave away everything, in his own opinion, to Panama, we have simply been conceding and trying to get by with conceding as little as we have to. But it has not been a negotiation such as a nation of this kind should make.

Senator HATCH. I have one more question. What about the argument about solidarity of the Latin American countries in favor of this treaty? This is one of the big arguments that is advanced by the proponents of the treaty. They say all Central and Latin American nations are in favor of this treaty, and therefore it would be good grace on the part of the United States to go along with their desires.

Governor REAGAN. I mention that in my statement; I do not believe it is true. I think there are too many instances of Members of the United States Senate who have had personal experience in talking to leaders in Latin American countries who have expressed their great concern as to what might happen at the canal if it is in the hands of Torrijos and if the United States withdraws its control and its operation.

I know one Latin American ambassador who was more blunt. He simply expressed it to an American questioner of my acquaintance when he said, "Why doesn't your Government just say no?"

Senator HATCH. Thank you, Mr. Chairman.

Senator ALLEN. Senator SCOTT.

Senator SCOTT. Thank you, Mr. Chairman.

Governor, let me add my expression of welcome to you today. I commend you for coming this distance to testify before our Subcommittee. We are certainly glad that you are here with us.

You mentioned a moment ago, in response to a question from Senator Hatch, that we had gradually been agreeing to give away our rights. Of course, that is terminated by the first paragraph of article 1. It says that, upon its entry into force, this treaty's effective date—this treaty terminates and supersedes the 1903 treaty, the 1936 treaty, the 1955 treaty. Then, just as a catchall—I do not know what they mean here—"all other treaties, conventions, agreements, and exchanges of notes between the United States and the Republic of Panama."

So, I do not think we are going to give it all away by this treaty. We are not going to have to worry about any gradual erosion in the Treaty.

GUANTANAMO NAVAL BASE IS CUBA

Let me ask you, if you will, Governor. We have the Guantanamo Naval Base in Cuba. We are there under a treaty. By virtue of that

In other words, this would bind the United States not to put a canal in Nicaragua or anywhere along the isthmus at all. But I do not read where Panama cannot authorize some other nation to put a canal in. The article is not clear on that point.

Do you feel there is any justification for the United States agreeing that it will not construct a canal anywhere within Panama without the consent of Panama or anywhere outside of Panama without the consent of Panama? I spoke of *quid pro quo* a while ago. I just do not see any there. I would like your thoughts on this.

Governor RAMAS. As I say, I myself have thought highly of the third lock plan. I have been unable to understand the importance of talking about another canal that we would build when we are now being forced to give up the one we already built.

It seems that history is repeating itself on this canal outside the Panama aspect. Panama hastened to ratify the original treaty because they were fearful of a large body of opinion in the United States that the canal in the beginning should have been in Nicaragua. So, maybe they are just trying to make sure that they continue to have the monopoly there in Panama by preventing us from building one anywhere else.

Senator SCOTT. From the viewpoint of the United States, do we gain anything by agreeing that we will not build a canal outside of Panama?

TRANSLATION OF BETHANCOURT PRESS CONFERENCE

Governor RAMAS. No, Senator, we do not.

There is another thing that I think should concern us, since treaties have to be in two languages. I have received a translation of a press conference that was held by Mr. Bethancourt in Panama recently. He was making claim to the press of their country: it is something that I think is kind of a bombshell.

He was making claim that there is no substance in the right of expeditions passage for U.S. ships in the future through the canal; that the word "expeditions" was used because the United States wanted "privileged" passage. He explained to their press that they settled for the word "expeditions" because they realized that here in this country the treaty advocates had to sell the treaty to the Senate and the Congress. Therefore they had that, but he made it very plain that "expeditions" did not mean that if an American warship, for example, asked for priority transit through the canal, it would get it. There would be no privileged transit provided for U.S. ships.

Senator SCOTT. You made some reference, Governor, in your principal remarks with regard to selling the American people. I wonder whether you want to elaborate on that in any respect. It just seems to me that, under our system of representative government, the ultimate will reside in the people of the country collectively. The sovereignty is not in the executive branch. It is not in the Chief Executive. The sovereignty is in the people.

Perhaps they could do a little educating of the President. Perhaps he will learn that before this action is taken by the Senate on this treaty, I have personal thoughts, but I would still like your thoughts.

Governor RAMAS. Senator, I think the violation of the sovereignty of the people has been evident over a period of 13 or 14 years. It was only last year in the campaign, and virtually by accident that the people of this country became aware that we had, over a period of years, been negotiating to give away the canal. Since then the secrecy factor has been gone.

You have to ask why. There must have been a feeling on the part of those who wanted to give up the canal that they must not let the people know about it too soon or the people would rise up in opposition.

Now, I believe that in some of the efforts to propagandize the result of the treaty there have been distortions of history given the American people. This is not a last vestige of colonialism, as it has been called. We did not engineer the revolution of Panama. I think the American people should know that we went down in good faith to negotiate with Colombia.

COLOMBIA WANTED \$40 MILLION

Panama had wanted to free itself from Colombia for a long time. Colombia, on the other hand, was stalling because their contract with the French expired in 2 years. They knew that we were willing to pay the French \$40 million for their rights in the French Canal Company. Colombia wanted the \$40 million. They thought that, if they just held out for 2 years until France was out by termination of the contract, then they would get the \$40 million.

They rejected the treaty. But, again, as I said, there was a large body of opinion in the Congress of the United States that the canal should be in Nicaragua. Panama saw its chance. Panama hastily, with no provision, militarily or otherwise, announced its secession from Colombia, hired a Frenchman as Minister Plenipotentiary to negotiate immediately a treaty with the United States, which he did. Panama signed that treaty. That was to stop us from going to Nicaragua. They wanted the canal because it was the only economic base upon which they could have a nation to begin with.

All of this has been distorted to the American people. I think the American people should know it. Now, again, I think the American people are being told that there will be no change, no difference in what happens to us if these treaties are signed.

I do not think the American people realize that, immediately in the loss of our rights of sovereignty in the Canal Zone, American citizens in Panama will be subject to the rule of a dictator. I have read here testimony pointing out there are really no political rights granted to the people there and very few civil rights.

There will be a takeover of some 70 percent of the property in the Canal Zone. There is no reason to believe that we have guaranteed, in perpetuity, our use of the canal. So, it is a case of, yes, educate the people. As Jefferson said, "If the people understand all the facts, the people will not make a mistake."

Senator SCOTT. Thank you, Governor.

NO POINT IN COMPLETING THIRD LANE OF LOCKS

You indicated also an opinion that it would take 10 years to construct a third set of locks in the canal. You might well look with favor on that. The treaty, however, provides that the United States shall have the right to add a third lane to the locks. But, under the conditions that we will continue to occupy the entire Canal Zone, subject to everything that is in this treaty.

Since we have to be completely out of the Canal Zone with our forces by 1999 and it takes 10 years to complete if we started now we would only have 12 years. Under those circumstances, would you feel that the United States should expend the money to put in a third set of locks?

Governor REAGAN. No, Senator. That is why I suggested it as an alternative, to help the economy and also to make the canal more effective.

I understand that there are just 13 ships—there are others who could testify to that more accurately—but I understand there are only 13 ships in our Navy that cannot now transit the canal.

Senator SCOTT. I believe Admiral Moorer said something to that effect.

Governor REAGAN. Yes; but anyway, the whole fallacy of constructing the third lock canal now would be in building that new canal in an area we are giving away and over which we will have no control—it is already rather unreal to me that we are talking about paying a country \$80 million a year to take the canal off our hands.

Senator SCOTT. Governor, you talk about binding ourselves not to construct a canal without Panama's permission, anywhere in the isthmus within or without Panama. I think you indicated that you disagree with that provision of the treaty and the third locks. I would assume that you would also not want to see us construct any new canal within Panama that would have the limitations as contained in the treaty.

Governor REAGAN. Not under the terms of this treaty.

Senator SCOTT. Thank you, Mr. Chairman.

Senator ALLIS. Thank you, Senator Scott.

Senator Jesse Helms of North Carolina, though not a member of the subcommittee, is present. Knowing of his vital interest in this important issue, I am going to ask Senator Helms if he would like to ask any questions.

Senator Helms. Mr. Chairman, thank you very much. I will be brief.

I welcome Governor Reagan.

Governor REAGAN. Thank you, Senator.

Senator Helms. Mr. Chairman, I deeply appreciate your courtesy. Governor Reagan, I commend you on an excellent statement with regard to this matter.

Governor, during the month of August there were press reports in my State to the effect that you had assured President Carter that you would not be particularly active in regard to this issue. Was that press report incorrect?

Governor REAGAN. Yes, Senator; it was.

The President called me and expressed the wish that I would be

on their side in the canal talk. I told him that in principle it was obvious I was opposed to this. He told me that, of course, the negotiations had been going on for 13 years. I said that for 13 years I think they should not have been.

I did tell him that, not having seen the treaty, not being briefed as to what was in it, knowing only what I had seen in the headlines, that I certainly would hold my fire until I had had an opportunity to know exactly what was in the treaty. He thanked me and said that was very gracious of me. Subsequently, I was briefed by Ambassadors Bunker and Linowitz. Several hours later, I stated in New York that they had not changed my mind.

Senator Helms. That perhaps falls in the same category as the repeated reports in the press and some other media that Senator Hayakawa was definitely going to vote for the treaty. I called Senator Hayakawa in California a couple of Saturday nights ago. He told me at that time that he had not seen the treaty and had not made up his mind on it.

I hope the press will note that Senator Hayakawa has not made up his mind on the treaty and that Ronald Reagan will continue informing the American people.

Let me ask you about the possibility of violence if the treaties are not approved. Dean Rusk was here not long ago. Frankly, I was appalled at his comment on television that, in effect, put him in the position of waving a bloody shirt, and, to be blunt about it, bordering on condoning violence if the Senate does not ratify these treaties. It seemed almost inflammatory. Others have made similar statements.

Let me ask you, Governor. The violence that occurred in the mid-1960's—who largely was responsible for that? Where did it originate?

Governor REAGAN. Well, it had been my understanding from studying that 1964 demonstration that went on for about 3 days and was total violence down there with machetes, rocks, guns, and everything being used and even destruction of Panamanian property by the Panamanians themselves; the kind of riots with which we are all too familiar these days. It is my understanding that those were very largely engineered and stirred up and kept going by political leaders of the left.

Senator Helms. On the university campus in Panama; is that not correct?

Governor REAGAN. Yes.

CHIEF SENIATOR BETHANCOURT

Senator Helms. Who was the head of that university at that time? Governor REAGAN. Now, you have me on that, Senator.

Senator Helms. Dr. Escobar Bethancourt?

Governor REAGAN. I thought so and was going to say so, but I was

a afraid to take the chance.

Senator Helms. Where is that gentleman today?

Governor REAGAN. He is the No. 1 aide of General Torrijos.

Senator Helms. That is correct, and the chief negotiator of this treaty as well.

Governor REAGAN. That is right.

Senator HELMS. Thank you, Senator Helms.
[The letter follows.]

United States Senate

WASHINGTON, D. C. 20540

August 12, 1977

President Jimmy Carter
The White House
Washington, D. C. 20500

Dear Mr. President:

I would once again express my gratitude for your thoughtful telephone call yesterday concerning the proposed Panama Canal Treaty.

As I mentioned during our conversations, there were efforts during previous Administrations to circumvent the very clear Constitutional responsibility of Congress in connection with the Panama Canal. Insofar as I know, these proposals, emanating from the State Department, were not approved by the President; indeed, the President may not even have been aware of what was going on. In any case, there was a serious concern last week among several Senators that such efforts may again be made -- without your knowledge. That was why I presumed to telephone you.

Needless to say, I was gratified by your assurances to the effect that there is no intention on your part, or on the part of your representatives, to circumvent Congress via interim efforts to transfer U. S. property, or surrender in any way U. S. control or authority over the Canal.

Senator HELMS. Is it not a fact that this gentleman is widely recognized—now, I am not making this accusation, but it has been made by many responsible observers and he does not deny it; that he is a dedicated Marxist.

Governor REAGAN. Well, this is also true. The Minister of Education of Panama, the Secretary of the Treasury, and, I believe, the Minister of Labor—but don't quote me on that because I might be wrong on that one—they are each members of what is called the People's Party. The People's Party is basically the Communist Party of Panama, and it is the only political party which is still allowed to operate in Panama.

Senator HELMS. So, it is not jingoism, it is not seeing a Communist under every bed to suggest that—as many of us have—it is obvious that the Soviet Union has a direct and active interest in this treaty?

Governor REAGAN. Oh, I think they have a very direct interest in the treaty.

PRESIDENT COMMITTED TO PRIOR AUTHORIZATION BY CONGRESS

Senator HELMS. Let me mention one aspect of your concerns, as contained in your opening remarks—the matter of this treaty being the duty of Congress and not just the Senate alone. Both the House of Representatives and the Senate must act on this matter.

On June 30 I visited with President Carter for about 40 minutes. I offered him an alternative to this unwise treaty. It was very similar to the alternative that you have presented today—the modernization of the locks and so forth. We discussed it in some detail. I presented it on behalf of three other Senators and myself: Senator McClellan, Senator Harry Byrd of Virginia, and Senator Thurmond.

There was a cover letter signed by the four of us stating our opposition to the treaty and enclosing a letter signed by four former Chiefs of Naval Operations who warned of the catastrophic potential of this treaty.

Subsequent to that, Governor, I had two telephone conversations with the President. He called me twice in North Carolina in August. I had previously inquired of the White House relative to the question of whether there would be any attempt by the President to circumvent the Congress in this matter.

He gave me his word that there would not be. He said, "Jesse, I agree that it is the duty of the House and the Senate." Subsequently—I believe it was the next day—I wrote to the President. I cited our understanding as I perceived it to be. I commended him as a gentleman for taking that position because it is the constitutional position, as you know.

Inasmuch as the President has not written me or otherwise contacted me saying that my understanding, as stated in my letter to him, was in error. So, I accept his assurance in good faith. I do not believe that he would renege on that assurance. I would be very disappointed if he did. Again, I commend you, Governor, on your fine testimony.

Mr. Chairman, I ask that a copy of my letter to the President be included in the record at this point.

Thank you very much, Mr. Chairman.

to give the canal away fully 23 years from now as it is to give it away immediately?

Governor REAGAN. I agree completely. I also add that there is the threat that, once you have announced your willingness to give it away, it is the same as in the Suez incident, the person you are giving it to can say, "Well, how much trouble will they make if I just accelerate the taking of it?"

They have a psychological point there, once you have said that you are going to give it up anyway.

No, I do not think the time lapse makes any difference at all. Senator ALLEN. Another thing that concerns me and many others I am sure is our agreement to maintain the neutrality of the canal. Would that permit and require us to see that, in the event of war with Russia, we would have to afford access to the canal to vessels of the Soviet Union?

Governor REAGAN. That is the Panamanian interpretation of that. I might add again that, when I was briefed by the ambassadors, they told me and I asked specifically who would declare, who would determine what was a violation of neutrality. Would that be something we could do?

I was assured that all of this was taken care of. But, now, in the translation again of that press conference in Panama, that question was also asked of Bedeacourt. The reply was that there was no assurance or no provision in the treaty whatsoever that would allow the United States unilaterally to decide that the neutrality had been violated.

So, again, we come down to which version of the treaty are we going to look at.

Senator ALLEN. I was also impressed in your pointing out that, while the full delivery of the canal to the Panamanians is postponed for 23 years, the fact that we are giving in at this time would encourage them to present the same arguments, the same threats of force, the same demonstrations to accelerate this process of withdrawal.

Do you feel that this principal is something in the nature of the canal putting its nose inside the tent and then gradually moving on in to take possession of the full tent?

NO PRACTICAL CONTROL OVER 23-YEAR TERM

Governor REAGAN. Yes, because, if we are going to listen to the arguments about 23 years, we had better get back and look at how fast the placemat takes place. What takes place in the first 30 months? The assumption by them of control over the Canal Canal Zone.

For example, the Ministry of Housing of Panama will take over the American houses in which American employees are now living. They will take over the schools.

All of this is in there early. So, it is not a case—as I think many people tend to believe—that for 23 years business goes on as usual except that we are going to be teaching them how to run the canal.

Business does not go on as usual. It starts immediately with changes being made, including the provision that, even when we have a joint command in those latter 23 years, only one American flag will be allowed to fly in the Panama Canal Zone. But that will not be the

Moreover, I was immensely comforted by your comment that both houses of Congress, not just the Senate, must approve any transfer of U. S. property or territory, and that none of this will occur unless and until such Congressional approval is given, and both countries have signed a new treaty.

Let me say again, Mr. President, that you have gone out of your way to be a gentleman. I admire and respect you for your forthrightness, even though we do not agree on this particular issue.

Thank you, sir, for your consideration.

Respectfully,

Jesse Helms

JESSE HELMS: 8

Senator ALLEN. Governor Reagan, I am concerned that there is much more involved in this issue than giving the Panama Canal away and paying the Panamanians to take it.

I feel that this is symptomatic of a trend in this country to give away our very substance to foreign countries, to back down when confronted around the globe. I would like to ask if you feel that, if we make these concessions—when it is not necessary that we do so—that our concessions would encourage other nations to confront us at various points throughout the world and that these concessions would make it harder for us to resist such confrontations in the future.

Governor REAGAN. Senator, I could not agree more.

We are in a climate where we abandoned an ally in Vietnam after we had forced that ally literally to accept the terms of the Paris accords, which were then broken by the enemy. We are withdrawing our troops from Korea. It looks as if we are trying to find a way out of our alliances with the long time ally, the Republic of China on Taiwan. There is the situation in Puerto Rico. There is Guantánamo, as Senator Scott mentioned.

All of these things are there. It just seems to me that there is no way that this will be seen as a magnanimous gesture; it will be seen as further retreat into isolationism by the United States.

Senator ALLEN. I think it is interesting that full control of the canal being given to Panama purports to be postponed for 23 years. I assume that it was not felt that an immediate giving away of the canal would have had no chance at all of passing.

Do you feel that merely delaying the full operation of the gift of the canal for 23 years changes the principle? Is it not just as wrong

primary flag; that will be in a secondary position. Their flag will fly first.

There are a great many details in here, none of which seem to favor us, including the implicit understanding that at a certain point our forces cannot exceed theirs. Well, they have close to 9,000 men, supposedly, in their national guard. But over 7,000 of these are policemen. All they have to do is designate them as policemen, and we are down to 1,500 men.

Senator ALLEN. I notice too that the safety, rights, and protection of our American soldiers who are there would be damaged a great deal. Their position would deteriorate because crimes committed by or against our service people would be tried under Panamanian law without the protections that are afforded under our Constitution. All our courts would have jurisdiction over would be offenses between our servicemen. So, it would deny this protection to our soldiers there; would it not?

Governor REAGAN. That is right.

Senator ALLEN. Thank you very much.

If there are other questions, let us go the 5-minute route now.

Senator Hatch?

Senator HATCH. Thank you, Mr. Chairman.

I realize that Governor Reagan has another appointment; I do not think he has that much more time. I do have some more questions, but I think I will withdraw those.

Your statement has been excellent. I think it has erased a lot of the misrepresentations that I know have been made by the proponents of the treaty. I think your analysis has been excellent.

I was in Panama recently and met with the President of Panama and the Minister of Planning and Economic Affairs. They asked me what I thought the chances are for ratification in the Senate. I said that I hope they are not making this an all-or-nothing proposition because I do not believe that it will be ratified in the Senate, certainly when the President ignores the constitutional issues that have been raised.

I took the same position independently that you have taken here today. I would agree that we need to do everything that we possibly can upgrading the treaty. We need to do everything that we possibly can

to create a good relationship not only with Panama but with all of our Latin American neighbors.

One of the major points that you make in your testimony today—and I think one of the most valid points—is that we do not have a cohesive program of foreign policy with regard to our Latin American nations. I would commend you for bringing that forth. Governor, I want to thank you for your comments here today. I think they have been informative and well reasoned.

Governor REAGAN. Thank you.

Senator SCOTT. Mr. Chairman, I have no further questions for the Governor. Once again, I personally am glad that you were with us. We have other witnesses and we could ramble on for a long time, but it is not necessary.

Senator ALLEN. Thank you very much, Governor Reagan and Senator Hayakawa. We thought that no debate on this question would be complete without having you express your views. We appreciate you both coming before the committee. We feel that your statement, Governor Reagan, has been very fine indeed. We hope that we will see the hoped-for, much-desired result of your wise testimony on the opinions and judgments of the distinguished junior Senator from California, our good friend, Senator Hayakawa.

Governor REAGAN. Mr. Chairman and Senators, thank you very much.

Senator ALLEN. Our next witness will be Congressman Flood. I understand that there is a vote in the House and that you will have to leave shortly.

Mr. Flood. Yes; there is a B-1 bomber vote over there.

Senator ALLEN. You may handle your statement as you wish. I ponder if Congressman Crane would also come up. It may be that we could hear from both of you before lunch and question you jointly.

We are delighted that you both have come before the committee to give us your views. Both of you are recognized authorities on this issue. We certainly appreciate your presence here before the committee.

I might state to you both that the committee certainly supports your position in addition to the ratification vote in the Senate.

Please proceed, Mr. Flood.

THE PANAMA CANAL TREATY AND THE CONGRESSIONAL POWER TO DISPOSE OF UNITED STATES PROPERTY

Mr. ALLEN, from the Subcommittee on Separation of Powers of the Committee on the Judiciary, submitted the following

REPORT

[Pursuant to S. Res. 170, sec. 3, 95th Cong., 1st sess.]

FINDING

The Subcommittee on Separation of Powers of the Committee on the Judiciary, having studied the issue of the authority of Congress to dispose of territory or property belonging to the United States as set forth in article IV, section 3, clause 2 of the Constitution, finds that the said power of Congress is exclusive and that the Constitutional prerogatives of Congress require that Congress authorize, by the enactment of appropriate legislation, any disposition of the property of the United States in the Isthmus of Panama.

RECOMMENDATION

The purpose of this report is to assist in the preservation of the separation of powers between the branches of the Federal Government and to further the constitutional prerogatives of Congress by recommending an amendment to the proposed Panama Canal Treaty (Executive N. 95-1). The amendment recommended is simple—the Panama Canal Treaty should be amended at article I thereof, or at another appropriate point, to include the following language:

Subject to the enactment of appropriate authorizing legislation by the Congress of the United States. . . .

If, for reasons of drafting preference or for reasons involving the constitutional processes of the Republic of Panama, the Senate deems it inadvisable to amend article I or any other part of the Treaty itself, then it is recommended that, in lieu of amendment, the Senate adopt,

¹ This language is identical in form to the language used at several points in the text of the Panama Canal Treaty, which was approved by the Senate and by which the United States was transferred to Panama.

prior to any final vote on a resolution of consent to ratification, the following form of reservation:

Resolved, That the Senate give its advice and consent to the ratification of the Panama Canal Treaty subject to the following reservation:

"That, prior to the exchange of instruments of ratification, the Congress shall have enacted legislation authorizing each disposition of the property belonging to the United States which would be obligated by the entering into force of said Treaty and related implementing executive agreements."

BACKGROUND INFORMATION

Introduction

"Wherever the real power in a government lies," said James Madison, "there is the danger of oppression." (Quoted in Hofstadter, "The American Political Tradition," p. 3 (1948).) That theme was echoed in 1957 by Mr. Justice Hugo L. Black, who said, "Ours is a government of divided authority based on the assumption that in division there is not only strength but freedom from tyranny." *Reid v. Covert*, 354 U.S. 1, 40 (1957). But ever increasingly, "the real power" in American government lies within the executive branch, both in the Office of the Presidency, in the National Security Council, the Department of State, the Department of Justice, the Central Intelligence Agency, and in the far reaches of the public administration. This development, long noted by individual Members of Congress and by scholars, has, in large part, occurred during the past few decades. In 1885, Woodrow Wilson could write, in his classic "Congressional Government, a Study in American Politics," that the locus of power in American government resided in large part in the chairman of the standing committees of Congress. Times have changed. Since that highwater mark of legislative dominance, the steady trend has been toward the concentration of power in the executive branch.

More than a decade ago, the progress of this steady growth of executive power was noted in colorful language by the Honorable Carl Vinson, chairman of the House Committee on Armed Services:

To any student of government, it is eminently clear that the role of the Congress in determining national policy, defense or otherwise, has deteriorated over the years. More and more the role of the Congress has come to be that of a sometimes querulous but essentially kindly uncle who complains while furiously puffing on his pipe but who finally, as everyone expects, gives in and hands over the allowance, grants the permission, or raises his hand in blessing, and then returns to his rocking chair for another year of somnolence broken only by an occasional anxious glance down the avenue and a muttered doubt as to whether he had done the right thing. House Committee on Armed Services, "Authorizing Appropriations for Aircraft, Missiles, and Naval Vessels," H. Rept. No. 1406, 87th Congress, 2nd Session, at p. 7 (1962).

The manner by which the executive branch, contrary to statute and often to the Constitution, has taken over much of the substance of governance has always been a matter of grave concern to the Sub-

committee. The development of overwhelming executive power cannot be accepted with equanimity; issues of fundamental Constitutional importance are raised by it, not the least of which is the decline of the traditional doctrine of separation of powers and the intrusion of the executive and judiciary into the responsibilities of Congress. But the Congress has not been without fault in permitting this to occur. For far too long, both Houses have solemnly acquiesced in a massive transfer of the legislative power of government from the Congress, where Constitutionally it should reside, to the executive branch and to the judiciary, neither of which has Constitutional authority to exercise it.

The most frequently heard rationalization for this development has been that executive dominance was necessary if there was to be any efficiency in the operation of the government. This justification for the sake of efficiency is grounded on the assumption that, in the modern era, it is necessary to find solutions to society's problems rapidly and to apply them without delay. The processes of the legislative branch are considered too cumbersome to be tolerated and therefore must be bypassed in favor of the executive branch, where an unelected official or an entire agency can assume the power to act and to act without delay and where programs can be developed with a view to their overall impact and without regard to the opinion of voters.

Although the Subcommittee is well aware of the pressing need for improving Congress' capacity to receive, assimilate, and deal with the complex data available in modern times, such concentration of power in the executive is not necessary for the efficient operation of government. The doctrine of separation of powers need not be a roadblock to the effective operation of the American government. Even if it appears to be such a barrier at times, it represents an essential ingredient of a democratic system; Congress provides the only forum in the nation where existing and proposed public policies can be exposed to the full debate necessary for the promulgation of wiser programs. Furthermore, as Justice Louis Brandeis said more than 50 years ago:

The doctrine of separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy. *Myers v. United States*, 272 U.S. 52, 293 (1926).

Millon's observation that "necessity is the plea of every tyrant" is a short but complete answer to the argument that is often made that the exigencies of international relations or domestic crisis require or necessitate rapid action that can be accomplished only by the executive. This is not to say that this or any other administration, is or has been tyrannical; but it is to say that the potential for tyranny is real and that further erosion of the principle of separation of powers, especially in the area of foreign policy, will be disastrous to the Constitutional liberties we presently enjoy within our own country.

Thus, the Constitutional prerogatives of Congress must be preserved, even at the price of possible inconvenience to the executive branch in its dealings with foreign governments. And although the

steady, and not particularly slow, increase in executive power vis-à-vis the Congress recent decades throughout all governmental affairs during recent decades, the Subcommittee does find that it is a particularly alarming trend in the conduct of foreign relations. Consistent with this process of aggregation of all power in matters relating to foreign affairs, the executive branch, in proposing for the first time in our history by treaty alone to dispose of the property of the United States in the Isthmus of Panama, is seeking to arrogate to itself, under a novel theory, a power which until now has been exclusively exercised and jealously guarded by the Congress.

In analyzing the dangerous potential consequences of this latest attack on the prerogatives of Congress, the Subcommittee has been guided in its work by the words of its first chairman, Mr. Ervin:

The history of liberty is the history of the limitation of governmental power, not the increase of it . . . Concentration of power always precedes the destruction of liberty.

The Subcommittee has also highly valued the comment of Prof. Charles E. Rice of the University of Notre Dame Law School:

I hope that the consideration of the Panama Canal treaties, including particularly the treaty providing for transfer of United States property, will provide an occasion for the reaffirmation of the Congressional power with respect to the disposition of the territory or other property of the United States. Congress' power in this area ought to be regarded as exclusive. The American people ought to be deprived of their territory and property only by action of that governmental body most responsive to public opinion. That body is the entire Congress and most especially the House of Representatives.²

Issue presented—jurisdictional base

In accordance with its mandate to study the separation of powers between the executive, judicial, and legislative branches of the government provided by the Constitution and pursuant to the provisions of Section 3 of Senate Resolution 170, the Subcommittee began, on July 22, 1977, to conduct an investigation of executive branch negotiations for the disposition by treaty of United States territory and property in the Isthmus of Panama.

The Constitution provides in Article IV, Section 3, clause 2 as follows:

Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Thus, the primary separation of powers issue studied by the Subcommittee was whether the executive branch could, without prior statutory authority and acting independently of the Congress, alienate territory or other property of the United States by concluding a treaty

² Quoted by Prof. Charles Rice to the Subcommittee on Separation of Powers included herein at app. 1.

to that effect with a foreign power—in this case, with the Republic of Panama.²

Hearings conducted

During the course of its investigation, the Subcommittee held seven separate hearings and received the testimony of 34 witnesses. Three volumes of testimony have been published as of the date of this report together with a printed digest of information collected by the Subcommittee staff from other sources.

Witnesses who appeared before the Subcommittee included a cross-section of authorities on all aspects of the issue under study. The Subcommittee was able to obtain the testimony of several outstanding Constitutional scholars, most notably Professor Raoul Berger and Professor Charles Rice. Additionally, representative witnesses from the legal profession, Judge Guthrie F. Crowe, George S. Leonard, and Leonard Mosker, provided useful information to the Subcommittee. Several Members of Congress contributed significantly to the Subcommittee's study. Chief among these were Senators Gravel, Hays, Hawkins, Helms, and Thurmond, and Congressmen Flood, Crane, and Murphy. The Subcommittee also was particularly fortunate to receive the testimony of Governor Ronald Reagan, Admiral Thomas Moorer, and Admiral John McCain. The executive branch was represented before the Subcommittee by Maj. Gen. Harold R. Parfitt, Governor of the Panama Canal Zone; Lt. Gen. Dennis P. McAuliffe, Commander in Chief of the U.S. Southern Command; Herbert J. Hansell, Legal Adviser to the Secretary of State; Robert B. Beekel, Deputy Assistant Secretary of State for Congressional Affairs; Stephen A. Rosenfeld, Department of State Counsellor on International Law and professor of law at the University of California, Berkeley; Russell L. Munk, Assistant General Counsel for International Affairs at the Department of the Treasury; and Arnold Nachmanoff, Deputy Assistant Secretary of the Treasury for Developing Nations. The Subcommittee sought but was unable to obtain the testimony of Anthony Solomon, Under Secretary of the Treasury for Monetary Affairs.

The foregoing witnesses provided a vast amount of information both on the Constitutional issues associated with the proposed Panama Canal Treaty and Neutrality Treaty (Executive N. 95-1) and on the practical and potential effects of the various treaty provisions. Although incidental to its inquiry, the Subcommittee was struck by several treaty provisions which appeared defective on their face, and although these issues were not directly involved in the investigation of the Subcommittee, Chairman Allen has stated the view that the Subcommittee "performed a doubly useful function, both by reviewing the Constitutional issues associated with the treaties and by providing a forum for airing other issues which might otherwise have gone undiscussed."

Issue defined

As noted, the principal issue studied by the Subcommittee on Separation of Powers was whether the President by virtue of the treaty-

making power exercises concurrent power with the Congress in the disposal of United States property to a foreign government. Therefore, not at issue were such questions as whether the United States is sovereign within the Panama Canal Zone or whether the proposed disposition of property is itself advisable. The Subcommittee affirms that the existence of full sovereignty of the United States in the Canal Zone is a close question, charged with emotion, but the Subcommittee further observes that the operative language of the Constitution grants to Congress power to dispose of "territory or other property", thus making it a moot question for the purposes of this report whether the United States is or is not sovereign in the Canal Zone and even whether or not the Zone is, in fact, unincorporated territory of the United States as the court have consistently held; e.g., *United States v. Hubbard*, 4:3 F. 2d 1054 (5 Cr. 1971) cert. den. 406 U.S. 935 (1972). Similarly, the Subcommittee notes that strong arguments can and have been made regarding virtually every aspect of the contemplated disposition of the Canal Zone to the Republic of Panama, and the Subcommittee does not intend this report to imply approval or disapproval of the proposals enfolded in the Panama Canal Treaty or the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal. Finally, inasmuch as nowhere has the claim been made that Congress does not have power to dispose of the territory or other property of the United States, the only issue addressed by this report is whether that power is *exclusive*.

A framework for analysis

Beginning in September, 1977, at the request of the Subcommittee, Professor Raoul Berger³ started a review of all of the testimony previously received by the Subcommittee and undertook a detailed two-month study of all other available information which might bear on reaching a proper conclusion in resolution of the property disposal issue. Professor Berger's work assisted the Subcommittee in synthesizing the vast amount of testimony received during the conduct of hearings and contributed significantly in aiding the Subcommittee in forming a final opinion and in developing recommendations for appropriate action. The Subcommittee has been particularly disposed to rely on Professor Berger's judgment since his personal opinion generally favors ratification of the proposed treaties tends to insure objectivity in reviewing the Constitutional issue by guaranteeing a receptive approach to the novel arguments of the Department of State favoring concurrent Presidential treaty power to dispose of property. At the outset, Professor Berger stated:

I want to make clear that I am for the Panama Canal Treaty as a matter of personal judgment. I am not here in any way to discredit President Carter. I am here because I have an overriding commitment to the Constitution.

Starting from that commitment and, we believe, from a position of objectivity, Professor Berger summarized for the Subcommittee the history of Article IV, Section 3 and comparable proposals advanced during the deliberations of the Framers at the Constitutional Convention.

³ Professor Berger has been the Charles Warren, Jr., Fellow of the Harvard Law School and has authored "Government by Judiciary" and "Executive Privilege."

² The Subcommittee study also focused in part on the possible improper use of executive agreements in concluding the new proposed treaty arrangements with Panama and in circumventing the Congressional ratification process. That aspect of the Subcommittee's investigation will be the subject of a second report.

tion. He also traced the use of Article IV, Section 3 through subsequent practice after adoption of the Constitution down until the present day. He covered for extensively all case law said to be relevant to the issue and analyzed for the Subcommittee in detail the statement addressed to Senator Clark by Dean Louis H. Pollak of the University of Pennsylvania dated January 10, 1978, as well as the Opinion of the Attorney General of the United States issued on August 11, 1977, both of which documents state the position of the executive branch that the power to dispose is not exclusively in Congress.

When ultimately asked by the Subcommittee if the power given to Congress under Article IV, Section 3, clause 2 of the Constitution to dispose of territory or other property of the United States was an exclusive power not given to the President under the treaty power except pursuant to prior Congressional authorization, Professor Berger replied:

Yes, and I would add that I base that opinion not on any claim of authority as a Constitutional scholar—although I have been studying Constitutional law a long time—but I base it on a particular, painstaking, extended study of this very problem against the background of every case that has been cited to you by the various other witnesses. It is an independent study. My study of the cases has led me to conclude that the power is indeed exclusive in the Congress.

Certainly the face of the Constitution itself indicates that the power is exclusive and nothing has been summoned by the Department of State or the Department of Justice, in my judgement, which vitiates that view.

Professor Berger's thorough analysis of the Attorney General's Opinion⁵ persuaded the Subcommittee that the conclusion of the Attorney General was clearly incorrect insofar as it asserted that the President could exercise by treaty concurrent power with the Congress to dispose of U.S. territory or property. Candidly, the Subcommittee is inclined to share Professor Berger's view of the Attorney General's Opinion which view he summarized somewhat subtly in this fashion:

I approach the Attorney General's statement with something less than awe. By this I mean no disrespect to the Attorney General personally. I did not have time to find the lovely statement by Justice Jackson where he contritely rejected a formal opinion that he had signed as Attorney General, noting the possibility that he may not have had time truly to study the issue while serving in that capacity. Bearing in mind the torrent of things that have to be signed by the Attorney General, one can hardly ask him to rush out to the library as did old man Berger to read for himself *U.S. v. Percheman* and the other cases he cited. This is without any disrespect to the Attorney General personally. *Attorneys General have to rely on their subordinates.*

In short, Professor Berger demonstrated to the Subcommittee on a case-by-case basis the paucity of each argument advanced by the

⁵ The opinion of the Attorney General, together with Professor Berger's analysis of it are included herein as Appendix I. Appendix I also contains the Statement of Professor Charles Wright.

Attorney General and by Dean Pollak⁶ and impressed on the Subcommittee the importance of resolving the Constitutional issues presented with objectivity and without being blinded by the political expediency of the moment:

Professor Baeza. This disregard to Constitutional requirements in the proposed Panama Canal treaties will haunt those who are closing their eyes to it down the years because it will be brought up by the people who will succeed Hansell and Erickson. They will say that they have a precedent. The Senate retreated and in the future they will insist on it as a matter of executive right.

Professor Berger's analysis, then, has provided to the Subcommittee a framework in which to work toward obtaining a full understanding of the great mass of information presented to the Subcommittee on the subject at issue.

EVIDENCE STUDIED

Text of the Constitution

At hearings on "Treaties Affecting the Operations of the Panama Canal" before the House Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries, Ralph E. Erickson, former Deputy Assistant Attorney General, confronting the question whether Article IV, Section 3, clause 2, "pursuant to which Congress has the power to dispose of property belonging to the United States, is an exclusive grant of legislative power to the Congress or whether the Congress and the President and the Senate through the treaty power share that authority," generously stated that "the answer to this question is not simple nor altogether free from doubt." Doubt in a Constitutional issue counsels against encroachment on a power explicitly conferred on one branch and not explicitly conferred on another; therefore, a clear case for establishment of "concurrent jurisdiction" is needed to overcome the plain language of an express grant of power to Congress alone.

To support the novel claim that the President with the advice and consent of the Senate enjoys "concurrent power" to dispose of United States property in the face of an express grant of that power in the text of the Constitution to the Congress alone, Mr. Erickson, before the House Subcommittee, and Mr. Herbert J. Hansell, Legal Adviser to the Secretary of State, before this Subcommittee, invoked a melange of dicta without ever acknowledging much stronger statements made by the courts that Congress' disposal power is exclusive. Thus, the proponents of the concurrent power theory have frequently cited as foundation for their argument the dicta in *Holden v. Joy*, 17 Wall. (84 U.S.) 212 (1872), but have rarely, if ever, cited the words of the Supreme Court in *Wisconsin Central R.R. Co. v. Price County*, 138 U.S. 496, at p. 504 (1890). In that case, the court said that Article IV, Section 3, clause 2 "implies an exclusion of all other authority over

⁶ The statement of Dean Pollak together with Professor Berger's analysis of it are included herein as Appendix II. Appendix II also contains the Statement of Professor Charles Wright.

⁷ *Lavigne v. the Department of State*.

⁸ *Treaty Affecting the Operations of the Panama Canal*. Before the House Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries (1928 Congress, 2nd Session, December 2, 1971, at p. 86).

"did not deal with the relation between the treaty power and the Congressional power under Article IV, Section 3, clause 2," and labeled the statement as "dicta."¹⁵ If this same test were applied to the arguments and cases advanced by the Department of State, the entire argument of the proponents of concurrent power would collapse completely since it is an argument based only on statements by the courts uttered entirely out of the context of that relation. In the words of Professor Berger:

The executive branch employs a double standard—what is dictum when the language is unfavorable to it becomes holy writ when the dictum reads in its favor.¹⁶

The Constitution, read in light of settled rules of construction, is the best evidence of its own meaning since, as will be seen, nothing has been advanced to undermine the obvious meaning of the text of the document itself. The document itself, then, under established rules of construction, does provide the best proof that the power of Congress to dispose of United States property is indeed exclusive. It remains, therefore, to meet the arguments, also based on the text of the Constitution, that other powers given to Congress are "shared" with the executive and that the placement of the disposal power in the body of the Constitution somehow implies a weakened efficacy.

Other powers in the text of the Constitution

Proponents of the concurrent power theory have advanced as a principal argument the fact that Article IV, Section 3, clause 2 uses the same terminology. "Congress shall have power", as is used in Article I, Section 8, in order to support the theory that subjects affected by treaty which are within the authority of Congress under Article I, Section 8 are concurrently under the authority of the President and Senate in the exercise of the treaty power and that, hence, by implication the power conferred by Article IV, Section 3, clause 2 is also exercised concurrently. However, even proponents of the concurrent power theory admit that some Article I powers cannot be concurrently exercised by the President and Senate by treaty.¹⁷ The Department of State thus admits that "treaties may not impose taxes."¹⁸

There is nothing in the power to impose taxes which is inherently more exclusive than any other Article I, Section 8 power, such as the power to establish post offices, to provide and maintain a navy, to declare war, or to coin money, all of which manifestly cannot be exercised by treaty. The proponents of the concurrent power theory prove too much; in other words, the powers conferred on Congress by Article I, Section 8 are in the main, if not entirely, exercised by Congress exclusively.

¹⁵ Herbert J. Hansell, at hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (105th Congress, 1st Session, July 26, 1957, in Part 2, at p. 25) and at hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (105th Congress, 1st Session, November 8, 1957, in Part 2, at p. 34). See, for example, *Panama Canal Treaties*, Report of the Committee on Foreign Relations (105th Congress, 2nd Session, February 1958, at p. 10).

¹⁶ Herbert J. Hansell, at hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (105th Congress, 1st Session, July 26, 1957, in Part 2, at p. 25).

Placement in the text of the Constitution

Plowing new legal fields in old furrows, the concurrent power theorists also attempt to derive comfort from the placement of the disposal power in Article IV, a portion of the Constitution alleged to deal "with the distribution of authority between the federal and state governments."¹⁹ These theorists have asserted that Article IV "does not purport to allocate between the branches powers exercisable by Congress or pursuant to treaty."²⁰ However, unmistakably, Section 3, clause 2 of Article IV *does* "allocate powers exercisable by the Congress" or else its words can have no meaning whatsoever:

The Congress shall have power to dispose of . . . property belonging to the United States.

Does the judiciary have this power? Does the President? Clearly not, and equally clearly an allocation of power is expressly made. But the concurrent power theorists have persisted in arguing that the *placement* of the property clause in Article IV "provides strong evidence that the property clause does not restrict the treaty power." (Emphasis added.)²¹

The better view is that the placement of a power in one or another article of the Constitution is without significance and that the scope of a given power is seen from its own terms rather than from its placement. Thus, for example, "Congress shall have power to declare the punishment of treason" is located in Article III, the judiciary article; Congress' power to make "exceptions and regulations" respecting the Supreme Court's appellate jurisdiction is also lodged in Article III; and the provision that "Congress may determine the time of choosing the electors" is placed in the executive Article II, Section 1, clause 4. The placement argument would thus, if carried to its logical conclusion, authorize the President by treaty to declare the punishment of treason, to regulate the court's appellate jurisdiction, or to intervene in the choice of electors. These conclusions would be as illogical as is the argument itself.

It is, then, the words expressing a power that determine the allocation of the power, not the placement of the words within the Constitution. Whether located in Article I or Article IV, the words "Congress shall have power" mean "Congress shall have power", and do not mean that "Subject to such inferences as may be drawn from placement in this text, Congress shall have power."

Closely tied to the placement argument is a similar argument which attaches significance to the close linkage between the power to dispose and the power "to make all useful rules and regulations respecting the territory or other property belonging to the United States." Mr. Hansell cited to the Subcommittee *Groffoy v. Riggs, supra*, as authority for the proposition that "the treaty power can be used to make rules and regulations governing the territory belonging to

in Territory Affecting the Operations of the Panama Canal." Erickson at hearings before the House Subcommittee on the Panama Canal (92nd Congress, 2nd Session, December 2, 1971, at p. 97).

¹⁹ Herbert J. Hansell, at hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (105th Congress, 1st Session, July 26, 1957, in Part 2, at p. 34). See also the report of the Senate Subcommittee on Foreign Relations (105th Congress, 2nd Session, February 3, 1958, at p. 66).

Early in the debates at the Constitutional Convention, during a discussion on whether the Senate could share in originating revenue-raising bills, George Mason, in an *in terrorem* statement, asserted that, already, "The Senate, by means of a treaty, might alienate territory without legislative sanction."¹⁰ Soon after Mason raised this point, the Framers referred the Article IV progenitor to the Committee on Detail. (See 2 Farrand 321, 324.) This progenitor provision granted to the legislature the power to dispose of territory and would thus answer the objection raised by Mason by guaranteeing that no treaty of cession of territory could be adopted except under authority or "legislative sanction" of the whole Congress. The provision was soon thereafter called from committee, debated, and adopted. (See 2 Farrand 466.)

Later in the debates, during discussion of the treaty power, Madison moved to "except treaties of peace" from the two-thirds requirement for advice and consent. The Madison motion, for a time, was agreed to by unanimous consent. (See 2 Farrand 540.) Thereafter ensued a debate of matters centering on the advice and consent function of the Senate in considering treaties of peace. The Subcommittee is impressed by the fact that this entire ensuing discussion dealt only with treaties of peace (or treaties of recognition) and did not deal with treaties of cession. No discussion whatsoever was held regarding the proposition of votes for treaties of cession since the Framers had presumably already addressed that problem by granting to Congress in Article IV the power to authorize disposal of undisputed territory or public property. Thus, when the treaty power was under discussion, and after the temporary adoption of the Madison exception, Williamson and Spaight moved that "no treaty of peace affecting territorial rights should be made without concurrence of two-thirds of the [members of the Senate present]."¹¹ In short, Williamson and Spaight sought to exclude from the Madison exception regarding treaties of peace those treaties of peace which would affect territorial rights. Williamson and Spaight were seeking to recoup a part of the loss in the temporary adoption of the Madison exception by restoring the requirement of a two-thirds vote in those cases of treaties of peace in which disputed territory was at issue. In like fashion, Gerry, also speaking for a greater proportion of votes on "treaties of peace," said that here "the dearest interest will be at stake . . . In treaties of peace also there is more danger of the extremities of the continent being sacrificed than on other occasions."¹² Again, the important point to note here is that these proposals advanced during the discussion of the treaty power, and within the context of the temporarily adopted Madison exception, were designed *only* to affect the vote required in the Senate in matters involving treaties of peace. The involvement of the whole Congress was not at issue. In other words, in matters involving the settlement of boundary disputes which might arise in the case of treaties of peace when the claim of the country had not yet been made good and where title was still disputed, the Framers debated the restoration of the two-thirds vote requirement for granting advice and

¹⁰ 184d.
¹¹ Constitutional Convention reported at 2 Farrand 544.
¹² 2 Farrand 541.

the United States, even in the District of Columbia."¹³ This argument was fairly thoroughly demolished by Professor Berger in his testimony:

Geoffrey presented the question whether a citizen of France could take land in the District of Columbia from a citizen of the United States. Local law withheld the right, but in keeping with national solicitude for protection of citizens abroad, a treaty provided for reciprocal rights of inheritance in such circumstances for citizens of both signatories. In consequence, the treaty with France overrode the local provision; but this hardly stretches to the "making of rules and regulations" by treaty for the District of Columbia. Were this astonishing claim true, the President could by treaty take over the governance of the District of Columbia, in spite of the Article I, Section 8(17) provision that "the Congress shall have power to exercise exclusive jurisdiction in all cases whatsoever over such district." Assume notwithstanding that the treaty power does indeed comprehend the "making of rules and regulations governing the District of Columbia," does the "close" linkage of the "power to dispose" comprehend a disposition of the White House by treaty? Such arguments verge on absurdity."¹⁴

The close linkage argument, like the placement argument, is perhaps good evidence only of the desperation of the proponents of the concurrent power theory in their unrewarding search for supportive logic.

Intent of the Framers

From all available records, it appears that the Framers evidenced an intent to preclude the President, with the advice and consent of the Senate, from disposing of government property by treaty alone. Such records of the Constitutional Convention as are preserved indicate that the Framers were seized throughout the debates by a desire not to permit the disposition of undisputed United States territory by the President or by the Senate, and frequently during the debates various devices were discussed to prevent the Senate and the President from selling "the whole country by means of treaties."¹⁵ Ultimately, the Framers resolved the issue by adopting Article IV, Section 3, clause 2, thus limiting the power of the President and Senate to make agreements with foreign powers regarding the territory of the United States. Apparently, this check on the treaty power was not intended to extend to the mere resolution of boundary disputes by treaties of recognition, but the records of the Convention show that it was intended to insure that territory or property actually and clearly belonging to the United States would not be handed over to a foreign power by treaty of cession except under authority of the entire Congress.

¹³ Herbert J. Russell at hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (95th Congress, 1st Session, July 29, 1977, in Part 2 at p. 57).
¹⁴ Professor Berger at hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (95th Congress, 1st Session, November 3, 1977, in Part 3 at p. 350).
¹⁵ See, e.g., the statement made by George Mason before the adoption of Article IV in the Constitutional Convention. Reported at 2 Farrand 207.

consent to ratification. These discussions evidenced a fear that *boundary treaties* might include a provision adjusting disputed boundaries in a fashion unfavorable to the United States. But the discussion *did not* touch on the question of the power to dispose of territory already clearly the property of the United States, nor did it touch upon the power to dispose of other property in which good title was vested in the United States. Those had been resolved by Article IV. Thus, on the following day, when Sherman and Morris spoke "against leaving the rights, established by the Treaty of Peace, to the Senate, and moved to annex a 'proviso that no such rights should be ceded without the sanction of the legislature,'" a clear reference was being made to boundary disputes¹ and again still within the framework of the Madison exception. The Sherman suggestion (it was not voted upon) referred to the rights conferred on the United States by the settlement with Great Britain. These rights were, *inter alia*, unresolved claims to territory relinquished by Great Britain in favor of the United States, which claims would for many years remain disputed by other nations and would eventually be resolved by purchase and by treaties of recognition in the nature of treaties of peace; e.g., the Treaty with Spain of 1819. Thus, the Sherman motion did not address treaties of cession or the power of the Congress to dispose of public property. The entire matter was, in any event, resolved by striking the Madison exception.²

Throughout this discussion of the Madison exception, the only matter under consideration was the performance of the Senate's own advice and consent function without a trace of desire to curtail the already established Congressional disposal function under Article IV. The Attorney General's reliance on the legislative history developed during the debate centering on the Madison exception is, therefore, wholly erroneous. Moreover, the Convention's overnight reversal of its adoption of the Madison exception shows how fluid were the views of the Framers and would argue against giving the remarks of Gerry and others any great weight even if these remarks had dealt with matters other than treaties of peace by which disputed territorial claims might be adjusted.

Finally, it remains to note that the decision of the Framers to deal with the Congressional disposal power in Article IV was completely logical. The Framers knew that Article IV would be concerned in large measure with the territorial arrangements between the states and the federal government within the proposed new Union. Article IV would, therefore, have seemed to the Framers to have been a sensible place for granting to Congress exclusive power to dispose of territory or property clearly belonging to the United States. For example, Article IV, Section 3 deals with the admission of new states by the Congress into the Union as well as the manner in which states can be re-aligned within the Union. Furthermore, the Section states that nothing in the Constitution "shall be so construed as to prejudice any claims of the United States or any particular State." Obviously, then, in drafting the progenitor Article IV for referral to the Committee on Detail, the Framers recognized that they were dealing with the

principal article of the Constitution respecting the established territorial integrity of the country. Equally obviously, they reserved for inclusion in that article the language conferring on Congress the exclusive authority to give up title to public lands vested in the United States and thus not properly subject to divestiture as merely disputed territory which might be surrendered by the mechanism of a treaty of peace. Thus, when the disposal power was referred to committee, it was submitted in the following form: The legislature shall have power "to dispose of the unappropriated lands of the United States." (See 2 Farrand 321.) This original language obviously refers to lands not held by the individual states but in which good title would vest in the United States and over which the Congress would be given exclusive authority. Since Article IV had been adopted in its present form by the time of the debate of the treaty power, the power to dispose of territory clearly belonging to the United States was not at issue since the matter had already been resolved by the adoption of Article IV.

In this connection, it is singular that, during the discussion of "the legislature shall have power to dispose of . . . the territory. . .," no mention at all was made of any exception to the legislative power for dispositions to be made under the treaty power.³ Also notable is the fact that, during the debate of the treaty power, discussion centered only on treaties of peace which would involve disputed claims. No mention was made of treaties of cession by which undisputed lands belonging to the United States might be conveyed to a foreign sovereign. Since territorial matters were hotly debated throughout the Convention, manifestly there was no intention that an exception would be made to permit disposition of the public lands without Congressional authority by a treaty of cession. In fact, a careful reading of the debates of the Constitutional Convention is persuasive that Article IV, Section 3, clause 2 was intended to satisfy objections that the treaty power might be used to dispose of public lands, while at the same time preserving to the executive and the Senate the power to resolve the many then-pending boundary conflicts by means of treaties of peace.

In short, where a territorial claim was vague, the President and the Senate were left free to make adjustments by means of treaties of peace or treaties of recognition, but where the claim of the United States had been perfected and it could be clearly demonstrated that the land involved was territory or other property *belonging* to the United States, then Congressional authorization would be required before alienation by any means would be permissible.

This evident intent of the Framers in adopting Article IV, Section 3, clause 2 has, until now, been consistently carried out in practice, and at no time has territory or other property clearly belonging to the United States been alienated by treaty alone, whereas on many occasions disputed claims have been adjusted by treaties of recognition or by treaties of peace, without specific Congressional authority.

Paul Treaty practice

Boundary treaties or treaties of recognition.—The report of the Committee on Foreign Relations on the Panama Canal treaties rather ingeniously provides at pp. 68-69 a list of treaties alleged to transfer territory or property belonging to the United States to other nations

¹ 2 Farrand 345.
² 2 Farrand 545-549.

without Congressional authorization. For convenience of discussion, the list is duplicated as follows:

1. Treaty between the United States and Spain, February 22, 1819 (12 Bevans 628).
2. Treaty between the United States and Great Britain, August 9, 1842 (Webster-Ashburton Treaty) (12 Bevans 82).
3. Treaty between the United States and Great Britain, June 15, 1846 (Oregon Boundaries) (11 Bevans 95).
4. Treaty between the United States and the United Mexican States, February 1, 1823 (Rectification of the Rio Grande in El Paso, Juarez Valley) (9 Bevans 970).
5. Treaty between the United States and the United Mexican States, August 29, 1963 (Solution of the Chamizal Problem) (15 U.S.T. 21).
6. Treaty between the United States and the United Mexican States, November 23, 1970 (Maintenance of the Rio Grande and Colorado River as International Boundary) (23 U.S.T. 371).
7. Treaty between the United States and Honduras, November 22, 1971 (Swan Islands) (23 U.S.T. 2931).
8. Treaty between the United States and Japan, June 17, 1971 (Reversion of Ryukyu and Daito Islands) (23 U.S.T. 447).
9. Treaty between the United States and Panama, January 25, 1955 (Treaty of Mutual Understanding and Cooperation), Articles VI and VII (6 U.S.T. 2283).

The treaties enumerated as Items No. 1 through 5 are treaties of recognition (treaties of peace) and hence have no bearing whatsoever on the power of Congress to dispose of territory or other property belonging to the United States.

Treaty No. 6, the Treaty between the United States and the United Mexican States (Maintenance of the Rio Grande and Colorado River as International Boundary), is also a boundary treaty, but insofar as it can be said to have ceded property belonging to the United States, it was made expressly subject to "necessary legislation", and therefore it is precedence for anything, it is precedence for the proposition that Congress must authorize the disposition of United States territory or property.

Treaty No. 7, the Treaty between the United States and Honduras (Swan Islands), was also, like treaties 1 through 5, essentially a treaty of recognition and is, therefore, not a precedent for the argument that territory belonging to the United States may be ceded by treaty alone. While it is true that very limited property transfers were permitted in this treaty, these transfers were *de minimis*, were themselves in the nature of recognition of superior title, and were made in return for recognition of good title in the United States Weather Station. Treaty No. 8, the Treaty between the United States and Japan (Reversion of Ryukyu and Daito Islands), equally cannot be used as precedent for a transfer of territory by treaty alone since this treaty grew out of Article III of the 1951 Treaty of Peace with Japan by which the United States received the right to exercise powers of administration in the Ryukyu but by which Japan did not renounce its right, title, and claim to the Ryukyus. No property rights as a territorial owner ever arose in the United States and hence no territory belonging to the

United States was by the later treaty ceded back to Japan. By the same token, the non-territorial property transfers effected by the Ryukyu treaty, as is noted in the Report of the Committee on Foreign Relations, were made pursuant to authority granted by Congress in the Foreign Excess Property Disposal Act of 1947 and related statutes (see particularly 40 U.S.C. Sections 511 and 512). Thus, again, if the Ryukyu treaty is precedent of any sort, it is precedent for the proposition that property disposal must be authorized by Congress.

Finally, treaty No. 9, the Treaty between the United States and Panama (Treaty of Mutual Understanding and Cooperation), Articles VI and VII, is the same treaty cited elsewhere as the best possible historical evidence for the proposition that the power of Congress to dispose of territory or other property of the United States is exclusive. We find it startling that the treaty would be cited to support the opposite contention. This treaty in its Article V, the article which makes a major property transfer from the United States to Panama, repeatedly uses the phrase, "subject to the enactment of authorizing legislation by the Congress". The Subcommittee believes that our negotiators insisted upon the use of this language so that as a matter of international law the Panamanians would be on notice of the fact that authorizing legislation was required before the transfers contemplated by Article V could be completed. This fact is astutely ignored in the Report of the Committee on Foreign Relations, which instead calls attention to Articles VI and VII which purport to transfer property to Panama without authorizing legislation. In fact, both Articles VI and VII are, oddly enough, "boundary adjustments", one boundary adjustment involving the Colon Corridor leading to the City of Colon and the other adjustment involving a single pier extending into the waters in the vicinity of the City of Colon. Neither Article VI nor Article VII deals, therefore, with anything greater than a slight adjustment in the terms of the Boundary Convention of 1914 between the United States and Panama, and certainly neither article stands as a precedent for a cession of territory or property by treaty alone. Additionally, even though only a slight amendment in a boundary convention was at issue, the Department of State specifically acknowledged in testimony before the Senate Committee on Foreign Relations that, in addition to Article V, also Articles VI and VII of the Treaty of 1955 required authorizing legislation.²⁰ The Treaty of 1955, therefore, contrary to the implication of the Report of the Committee on Foreign Relations, is perhaps the strongest possible historical precedent for the proposition that Congress alone can dispose of United States territory or property in Panama.

Indian Treaties.—The Committee on Foreign Relations also cites, as precedent for the novel concurrent power theory being advanced by the Administration, certain treaties by which the United States dealt with Indian tribes within its own borders. Indian treaties are not proper for study of this issue since they involve the unique relation between the United States and the Indian tribes and since the principles of Indian law have virtually no bearing on territorial or property

²⁰ Assistant Secretary of State Holland provided a memorandum to the Senate Committee on Foreign Relations which reads in pertinent part: "The Department of State has advised that the Treaty of 1955 between the United States and Panama—Authorizing the Transfer of Certain Property to Panama—Required the enactment of legislation by the United States Congress before the Treaty could be ratified. Hearings on the Panama Canal Treaties before the Subcommittee on Foreign Relations (Executive F. 84th Congress, 1st Session, at pp. 80-81).

to the United States in consideration of \$5,000,000 to be invested in the manner stipulated. The Indians considered that the prior treaties, confirmed by the new, did not contain a sufficient quantity of land, so the United States agreed to convey an additional tract in consideration of \$500,000 to be deducted from the \$5,000,000.¹⁴ This may be viewed either as a purchase and sale or an exchange: "the Cherokees were competent to make the sale to the United States and to purchase the lands agreed to be conveyed to them. . . ." And the transaction was authorized by the Act of 1830, which empowered the President to set aside land west of the Mississippi for the reception of such tribes as chose to emigrate, and to "exchange" such lands with any tribe.¹⁵ The 1830 Act served to ratify the Act of 1828, and "ratification is equivalent to original authority."¹⁶ "It is well settled that Congress may . . . ratify . . . acts which it might have authorized" . . . and give the force of law to official action unauthorized when taken. Although the subsequent 1833 and 1835 treaties differed in some particulars from the authorization, the purpose was the same—"to induce the Indians . . . to emigrate and settle in the country long before set apart for that purpose."¹⁷

Thus, the Cherokee Treaty of 1835 cited in the Report of the Committee on Foreign Relations is a treaty which, if it stands for anything, stands as good precedent for the fact that public property may not be conveyed except under authority of Congress.

It remains to dispose of the second Indian treaty cited in the Report of the Committee on Foreign Relations. This treaty with the Chippewas of 1835 is again a treaty apparently called to the attention of the Committee on Foreign Relations by a casual reading of the judicial authorities, in this instance *Jones v. Meehan*, 175 U.S. 1 (1899), another case which has virtually nothing to do with the power of Congress to dispose. The Treaty of 1835 with the Chippewas, which is discussed in detail in *Jones v. Meehan*, was a typical treaty of reservation involving a grant from the Chippewas to the United States. The treaty had "set apart from the tract hereby ceded [by the tribe] a reservation of 640 acres" for an individual Indian. Thus, while this treaty is, as asserted in the Report of the Committee on Foreign Relations, "an example of a treaty with an Indian tribe,"¹⁸ it is hardly an example of a conveyance of property belonging to the United States to an Indian without prior authorization by act of Congress. In fact, the only conveyance by treaty to an individual Indian made in the Treaty of 1835 is a conveyance from the Indian tribe direct to the individual Indian and not a conveyance from the United States. Citation of the Chippewa Treaty of 1835 as precedent for disposal of U.S. property by treaty alone is a good example of the pitfalls of attempting to resolve a major Constitutional issue by a cursory

cessions to foreign sovereigns. Thus, while it is true that in our early history the United States did deal with the Indian tribes by treaty, this practice was abolished in its entirety by the Congress in the Indian Appropriations Act of 1872. If Indian tribes were not a special case, the Congress could hardly exercise power to abolish the President's authority to deal with them by treaty. Moreover, Indian treaties reserved to the Indians a bewildering variety of types of interest in the lands reserved. Typically, Indian treaties reserved only the right to the use and occupation of territory already possessed by the Indians (hence, the use of the term "reservation"). Thus, also the typical Indian treaty was not in any way a treaty of cession of territory but rather a treaty by which the use of territory was ceded from the Indians to the United States with the Indians reserving out of the grant the usufruct of a given portion. In any event, regardless of the nature of the grant from, or acknowledgment of the rights of, the Indian tribes, Indian treaties must be considered in light of the knowledge that from the very earliest days of European settlement in North America, Indians were regarded not as sovereign independent nations but rather as "wards of this nation" or "in a state of pupillage" or "dependent political communities". Thus, for example, in recognition of this dependent political status, the United States always retained, at a minimum, the right to exercise the sovereign power of eminent domain within Indian lands.¹⁹

The Subcommittee does not feel, therefore, that Indian treaties have any true place in this study of the limitation of the treaty power by the power of Congress to dispose of territory or other property belonging to the United States; however, since Indian treaties have been repeatedly cited as precedent for the theory of concurrent power to dispose, it is necessary to demonstrate, as a matter of example, why the two specific Indian treaties cited in the Report of the Committee on Foreign Relations do not in any way support any conclusion except that the power of Congress to dispose is exclusive.

The two treaties cited in the Report of the Committee on Foreign Relations are: (1) the Treaty with the Cherokee Nation of December 29, 1835, and (2) the Treaty with the Chippewa Indians of October 2, 1863.

The treaty with the Cherokee Nation of 1835 presumably came to the attention of the Committee on Foreign Relations in connection with its equally mistaken citation of dicta from *Holden v. Joy*,²⁰ a case which involved the same treaty. The inappropriateness of the dicta from *Holden*, well as the citation of the Cherokee Treaty of 1835, is underscored by the facts. These are recited by Professor Berger as follows:

In May, 1828, and February, 1833, "the United States agreed to possess the Cherokees of seven million acres of land west of the Mississippi." It "was the policy of the United States to induce Indians . . . to surrender their lands and possessions to the United States and emigrate and settle in the territory provided for them in the treaties," so an exchange of land was provided. But a third treaty, that of December, 1835, proved necessary, whereby the Indians ceded their lands

¹⁴ 84 U.S. at 237, 239, 241.

¹⁵ *Id.* 215, 235, 240.

¹⁶ *Wheeler v. Shaw*, 274 U.S. 31, 35 (1907).

¹⁷ 84 U.S. at 240.

¹⁸ Report of the Committee on Foreign Relations on the Panama Canal Treaty, at p. 68.

¹⁹ *Cherokee Nation v. Southern Kansas Railway Co.*, 135 U.S. 641, 653-654 (1900).

²⁰ See Report of the Committee on Foreign Relations on the Panama Canal Treaty, at p. 67.

In *Sioux Tribe*, the Supreme Court addressed the issue of whether executive orders in 1875 and 1876 reserved a compensable interest in land to the Sioux Indian Tribe. The court found "... that there was no express Constitutional or statutory authorization for the conveyance of a compensable interest ... and that no implied Congressional delegation of the power to do so can be spelled out from the evidence of Congressional and executive understanding." (*Sioux*, *supra*, at p. 331.)

The executive orders involved were found, as might be expected, to have reserved only *use* of the lands to the Sioux Tribe. The court ruled that the interest retained by the Indians under the executive orders could be terminated by the executive or by the Congress without any obligation on the part of the United States.

In the reasoning leading to its decision in that case, the court noted that a treaty or a statute could create a compensable interest in lands in the Indians if those lands were subsequently taken from them by the government. However, while the court did note that a statute would obviously be an expression of Congressional will, the court specifically did not on the other hand imply that a treaty could convey *public* land without an express or implied Congressional delegation of authority or without enactment of authorizing legislation to give effect to any proposed treaty terms suggesting a disposition of U.S. property. In fact, the court, to the contrary, implied the exact opposite.

If the lands reserved for the use of the Indians are reserved pursuant to a statute, it is obvious that Congress has given its consent to the disposal. When lands belonging to the United States are transferred by treaty or executive order, the court reasoned that delegation of Congressional authority must be found. The court stated further that such delegation of authority may be explicit or may "... be spelled out from long-continued Congressional acquiescence in the executive practice."

The importance of the *Sioux Tribe* case, as related to the disposal of property by treaty, lies in the fact that the court seems to have stated rather clearly that lawful disposal by treaty or executive order could be effected only if the court could find express or implied Congressional delegation of the exclusive authority of Congress to dispose of property or territory belonging to the United States. The Subcommittee has been unable to find any such express or implied delegation of power by the Congress insofar as it relates to the disposal of land in the Canal Zone to Panama. The Panama Canal Act of 1912 only grants to the executive branch the authority to acquire or exchange land, not the power to dispose of it.

Moreover, Congressional acquiescence with respect to past practice in the Canal Zone has permitted the executive only to make minor boundary adjustments without first obtaining express Congressional authority. In any event, the boundary adjustments made have themselves tended to be in the nature of an "exchange" as already authorized by the Panama Canal Act of 1912. The holding in *Sioux Tribe*, then, does stand as a strong support for the contention that since no express or implied authority to dispose of territory or other property in the Canal Zone can be inferred from the past enactments of the Congress or from the past practice of the executive branch in transferring property in the Canal Zone, then specific statutory authority

examination of the tortured course of the treaty relations between the United States and the Indian tribes prior to 1872. Merely, Congress brought the practice of dealing with the Indians by treaty to a halt in that year, and little is now gained by facile assertions that treaties with Indian tribes stand as historical precedent suggesting that the Panama Canal treaties standing alone can validly transfer to the Republic of Panama the territory or other property belonging to the United States in the Isthmus of Panama.¹⁰

Judicial authorities

At the outset, the Subcommittee must state candidly that its review of all of the cases cited to it by the many commentators and scholars who have studied the issue has led the Subcommittee to the conclusion that each case cited in some fashion distinguishable from the main issue and that no case cited by either opponents or proponents of the concurrent treaty power theory answers the basic question, "Can the President, with the advice and consent of the Senate, by treaty alone, dispose of United States territory or other property?" The United States has been, in the main, an acquisitive, growing nation and, therefore, it is not surprising that no court, until now, has been presented with a case or controversy turning on the exclusivity of the power of Congress to dispose of territory or property in relation to the power of the executive, with the advice and consent of the Senate, to conclude treaties. Even if this issue were a proper issue for resolution by the courts rather than an issue to be resolved in the political process, it must be admitted that it is now a case of first impression primarily because the United States has not heretofore been overtly inclined to alienate its own territory or property in favor of foreign sovereigns. Nevertheless, several cases do merit discussion either because they tend to illuminate the plenary nature of the power granted to Congress under Article IV, Section 3, clause 2, or because they have been incorrectly cited as authority for the new theory of concurrent treaty power to dispose of public property.

Cases demonstrating the exclusivity of the power of Congress to dispose of the public's property

The primary case showing the extent and exclusivity of the power of Congress to dispose of territory or other property of the United States is *Sioux Tribe of Indians v. United States*, 315 U.S. 317 (1942). After noting that fact, however, the Subcommittee hastens to stress that *Sioux Tribe* does not hold that the power of Congress is exclusive in the specific context of a case involving the treaty power versus the Congressional power. The information drawn from the decision in *Sioux Tribe* is nevertheless not to be considered *mero dicta* since the case itself did turn on the question whether the power of the President alone acting through executive agreement was concurrent with the Congressional power to dispose. Thus, the holding in the case does serve to illustrate forcefully the point that the disposal power is an exclusive power of Congress, and the court did state, rather emphatically, as part of its holding that "the Constitution places the authority to dispose of public lands *exclusively* in Congress." (See *supra* at p. 10.)

¹⁰ 1964, p. 48.

must now be obtained before any major property disposition to Panama can be legally accomplished.

In *Wisconsin Central R. R. Co. v. Price County*, *supra* at p. 8,¹⁰ the court stated as part of the holding in the case that Article IV "implies an exclusion of all other authority over property", thereby like *Sioux Tribe* also demonstrating the plenary and exclusive nature of the power of Congress to dispose of public lands or property. While it is true that *Wisconsin Central* involved the disposal power in the context of Congressional power versus state power, nevertheless the case provides again strong evidence that the theory of concurrent disposal power is erroneous. *Wisconsin Central* is a characteristic of a long line of decisions which reflect the court's obvious agreement with the general principle enunciated by Justice Story:

The power of Congress over the public territory is clearly exclusive and universal.¹¹

The Subcommittee recognizes that the principle enunciated by Story has not yet been applied in a case directly on point, but the principle has nevertheless been applied repeatedly, not in dicta, but in the holdings of many cases where the exclusivity of the power of Congress was essential to decision.

Cases from which dicta is drawn to support the theory of concurrent treaty power to dispose of the public's property

Proponents of the concurrent treaty power theory have been unable to locate a single case in which the decision in the case turned on the issue of the existence of concurrent power in the President, or in the President with the Senate, to dispose of public property. Instead, we have seen cited a plethora of dicta drawn from cases not involving the treaty power versus the Congressional power to dispose and not even involving the question of the exclusivity of the Congressional disposal power in any context.

For ease of review of these sources of dicta, the following is a list of the principal cases upon which the concurrent power theorists have mistakenly relied:

- Jones v. Meehan*, 175 U.S. 1 (1899).
- U.S. v. 45 Gallons of Whiskey*, 93 U.S. 188 (1876).
- Holden v. Joy*, 17 Wall. (64 U.S.) 312 (1872).
- Francis v. Francis*, 203 U.S. 233, 239 (1906).
- U.S. v. Percheman*, 82 U.S. (7 Pet.) 511, 58-59 (1833).
- Foster v. Nielson*, 27 U.S. (2 Pet.) 253 (1829).
- Geofroy v. Riggs*, 133 U.S. 258 (1890).
- Misouri v. Holland*, 253 U.S. 416 (1920).
- Asakura v. Seattle*, 295 U.S. 323 (1924).
- Reid v. Covert*, 354 U.S. 1 (1957).
- Santovincenzo v. Egan*, 284 U.S. 30 (1931).
- Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832).

Indian Treaty Cases—*Jones v. Meehan*, *supra* at p. 19 and above, typifies a line of cases involving Indian land titles wherein a grant of

title was made by the tribe to an individual as part of the terms of a treaty with the United States. A careless reading of these cases coupled with a careful extraction of dicta from them can give the erroneous impression that title to lands belonging to the United States can be transferred to an individual by treaty alone. Thus, proponents of the concurrent power theory, such as, for example, Dean Louis Pollak, have quoted the following dicta from *Jones*:

A good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe without an act of Congress.

At first blush, this dicta would seem to indicate that title to the territory or other property belonging to the United States can be transferred by treaty alone. Not so. In fact, this misleading dicta has nothing whatsoever to do with the power conferred on Congress by the people through Article IV of the Constitution.

In *Jones v. Meehan*, the treaty in question has "set apart from the tract hereby ceded [by the tribe] a reservation of 640 acres" for an individual Indian, and the issue in the case was what kind of title the Indian took. The court itself, recognizing that Article IV was not a question in the case, quoted from an opinion of Attorney General Roger Taney:

These reservations are excepted out of the grant made by the tribe [to the United States] and did not therefore pass with it; consequently, the title remains as it was before the treaty, that is to say lands reserved are still held under the original Indian title. (Emphasis added.)

The court in *Jones* thus continued to hold that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant [by the tribe to an individual] of complete title in fee simple."¹² The Subcommittee does not deem it necessary to go into the court's detailed discussion of the nature of the title reserved, e.g., was it legal or equitable, and other fine points of Indian land law arising from the fact that Indian lands were initially held in common. It should instead be sufficient to set out the court's quotation in *Jones* from *Doa v. Wilson*, 25 How. 457, 463-464 (1859):

The Potawatomie nation was the owner of the possessory right of the country ceded, and all the subjects of the nation were joint owners of it. The reserves took by the treaty, directly from the nation, the Indian title.

The fact that title "reserved" to individual Indians does not pass to the United States and thereafter back to the Indians in the many Indian treaty real property cases may be best understood from a close reading of *Francis v. Francis*, 203 U.S. 233, 238 (1906), which cites *Jones* for the proposition that when a treaty makes "a reservation of a specified number of sections of [Indian land], the treaty itself converts the reserved land into individual property." With this understanding, then, of Indian land law, in no fashion can *Jones v. Meehan* or any other treaty reservation case be properly cited as having anything whatsoever to do with the power of Congress to dispose of

¹⁰ *Jones v. Meehan*, 175 U.S. 12, 21.

¹¹ See also *Ashokan v. Texas*, 347 U.S. 212 (1954); *Reich National Insurance Company v. Miles*, 290 Fed. 571, 574 (App. D.C. 1920); *U.S. v. San Francisco*, 310 U.S. 26 (1940); "We have repeatedly observed that the power of Congress to dispose of the public lands within the United States is exclusive," *U.S. v. Mexico*, 428 U.S. 522, 539 (1976), and *U.S. v. Remy*, "Commentaries on the Constitution of the United States," at p. 200 (1904 Ed. 1909).

United States property. Not one of these cases involves conveyance of property belonging to the United States.

Holden v. Joy is another Indian treaty case which constitutes one of the pillars of the argument of the Administration in favor of the exclusive, postulated power to convey public property by treaty alone. In truth, *Holden* does provide perhaps the best dicta which can be cited by proponents of the concurrent power theory inasmuch as it does contain strong language to the effect that a conveyance of property can be made by the President by treaty without Congressional authorization. However, even those who have relied on the case admit that the language quoted is *purely dicta* and that the statement made had no bearing in the court's decision. Moreover, the cases cited by the court in *Holden* as authority for its regrettable *ex cathedra* utterance do not in any way give it support. These cases were each abstracted for the Subcommittee by Professor Berger in an appendix to his testimony. Having examined them each in turn, the Subcommittee now shares Professor Berger's conclusion that half the cases cited by the court were "altogether irrelevant" and that the rest concerned "reserves" under which no title had passed to the United States and, hence, under which no title could be passed from the United States.⁴³

In any event, there is little point in belaboring the dicta in *Holden v. Joy* since even the Attorney General has recognized it to be simply dicta and has stated that "the court conceded that the question was immaterial in the case because Congress had actually implemented and ratified that particular treaty."⁴⁴ In fact, when the court in *Holden*, speaking to the contention that the President and the Senate "could lawfully covenant that a patent should issue to convey lands which belong to the United States without the consent of Congress," stated that "a treaty may convey to a grantee good title to such lands without an act of Congress conferring it," it was making a statement that was wholly unnecessary to the decision reached because Congress had already authorized the conveyance involved. Unnecessary statements are rarely supported by thorough legal research, and the dicta in *Holden* is a perfect example of that fact. The Subcommittee also finds in the repeated misleading citation of *Holden* a continuation of the double standard used by proponents of disposal of public property by treaty alone in that these proponents rely entirely on dicta running in their favor to make a shaky case for concurrent power but consistently reject *as dicta* any judicial statements that the Congressional power to dispose is exclusive.⁴⁵

Land Grant Cases—U.S. v. Percheman was a case cited by the Attorney General and other Administration spokesmen to show that "the court held self-executive certain clauses of the Florida Treaty with Spain which relate to the regulation of property rights in newly acquired territory."⁴⁶ However, the so-called self-executing clauses in the Florida Treaty involved the confirmation of individual property

rights based on Spanish land grants. These property rights would have been affirmed as a matter of international law even absent the treaty clauses, and inasmuch as the property rights in question were the property rights of individuals, not the property rights of the United States, the entire case is, therefore, irrelevant to any discussion of the Article IV power of Congress. The *Percheman* case is, in fact, closely analogous to the Indian treaty cases in that it essentially involved a reserve of private individual grants pre-dating the treaty. Title did not pass to the United States and thereafter to the individuals. The fact that the Treaty with Spain of 1819 of its own force confirmed the titles of pre-treaty individual land owners of Florida territory ceded to the United States by Spain does not argue for the legitimacy of a so-called self-executing treaty granting title to land already vested in the United States to new post-treaty individual owners.

Similar to *Percheman*, and equally often cited, is *Foster v. Neilson*, a case which also turned on the validity of pre-treaty land grant titles. The court in *Foster* erroneously thought that the Treaty of 1819 required ratification and confirmation of the private titles "by the act of the legislature"; however, the court in *Percheman* discovered that the Spanish counterpart version of the treaty expressly dispensed with the requirement that the private titles be ratified by act of the legislature, a fact now known at the time of the decision in *Foster*.⁴⁷ In any event, both land grant cases are so far afield and have so little to do with the Article IV power of Congress to dispose of United States lands as to warrant much less attention than that which has already been shown to them, here and elsewhere.

Other Treaty Power Cases.—The Administration witnesses dwelled on *Geofroy v. Riggs* as "strong authority" for the power of the President and Senate to conclude treaties regarding subject matter within the ambit of the power of the Congress. The Subcommittee has studied the case and is not impressed. While, in some vague sense, *Geofroy* might be said to represent the principle that the treaty power can extend to the peripheries of Congressional power, in fact, the case has not the slightest bearing on the effect of Article IV respecting public property because the case has nothing to do either with the disposition of public property or with the regulation of public property. To reiterate the earlier discussion of the case in this report (see *supra* at p. 10), the holding in *Geofroy* was simply that a citizen of France could take land by descent from a citizen of the United States within the District of Columbia. Therefore, the reason for the repeated citation of this case by the proponents of the concurrent power theory remains a matter essentially baffling to the Subcommittee. Oddly enough, the case does not even stand for the proposition that a treaty can supersede the provision of Article I, Section 8, clause 17, of the Constitution which confers on Congress the power of "exclusive legislation in all cases whatsoever" relating to the District of Columbia. *Geofroy* involves the Treaty with France of 1853 which gave to Frenchmen the right of inheritance only in states "whose existing laws permit it." Thus, the court held in *Geofroy* that the District of

⁴³ The term "self-executing treaty" is misleading and improper. Treaties have the same force and effect as statutes of Congress, and they stand or fall by the same test. The Constitution, art. II, § 2, cl. 2.

⁴⁴ 23 U.S. at p. 89.

⁴⁵ Statement of Basil Berger before the Subcommittee on Separation of Powers at hearings on the Panama Canal Treaty (95th Congress, 1st Session, November 3, 1977, in Part 2, at p. 384).

⁴⁶ Statement of Attorney General Griffin Bell before the Senate Committee on Foreign Relations at hearings on the Panama Canal Treaty, on September 26, 1977, at p. 10.

⁴⁷ As the Subcommittee emphasizes, the court in *Percheman* did not rely on the Treaty with Spain, the Subcommittee emphasizes, but on the fact that the Treaty with Spain gave to Frenchmen the right of inheritance only in states "whose existing laws permit it."

⁴⁸ Statement by Attorney General Griffin Bell before the Senate Committee on Foreign Relations at hearings on the Panama Canal Treaty, on September 29, 1977, at p. 18.

Columbia was a state for the purposes of the treaty and that, although an Act of Congress of March 7, 1888, forbade the ownership of land in the District by aliens, the Act excepted the disposition of land "secured by existing treaty," an exception which the court held included realty "acquired by inheritance" and thus protected by the Treaty of 1853.¹³ Thus, the treaty at issue in *Geofroy* did not itself pretend to override contrary local law and, additionally, Congress had consented to the application of the treaty terms to permit inheritance by Frenchmen by means of the express exception set forth in the Act of March 7, 1888.

To summarize, *Geofroy v. Riggs* has nothing to do with the power of Congress to dispose of United States territory or public property, but in the event it did, it could stand, if for anything, only for the proposition that the treaty power does not invade the power of Congress over the laws of the District of Columbia.

Finally, the Administration and others have advanced *Missouri v. Holland* in support of the proposition that a treaty can "empower Congress to enact legislation going beyond its specifically enumerated grants of power."¹⁴ Without becoming unduly concerned at this gross distortion of basic Constitutional principles, perhaps it is best simply to state that *Missouri v. Holland* had nothing to do with the disposition or regulation of United States territory and that the case involved a treaty with Great Britain for the protection of migratory birds. The court held that "wild birds are not in the possession of anyone and possession is the beginning of ownership"; hence, neither a state nor the United States could assert any property interest in them. *Missouri v. Holland* can, therefore, be of no interest in any serious analysis of the Congressional power to dispose of public property.

Obviously Irrelevant Cases.—Without unduly lengthening this report, the Subcommittee observes simply that a mass of cases have been cited irresponsibly by Administration spokesmen in the ongoing debate of the nature of the power of the Congress to dispose of public property. However, for illustration, five examples now follow.

Adamson v. Seattle.—This fascinating decision turns on an ordinance of the City of Seattle restricting licenses to operate pawnshops to citizens of the United States. Its holding that citizens of Japan could not be denied the equal opportunity also to operate pawnshops does not appear to have any relevance to anything except possibly to the operation of pawnshops.¹⁵

Reid v. Covert.—This case was cited by Herbert Hansell as authority for the power to dispose of public property by treaty. The case involves a trial by court martial of the wife of an Army sergeant convicted in England by U.S. Army authorities for the murder of the sergeant. The court held that the Bill of Rights requires a jury trial after indictment. The Subcommittee does not understand why this case was cited to it.

Santovincenzo v. Egan.—This case was also cited by Mr. Hansell in support of the power to dispose by treaty. In *Santovincenzo*, an Italian died in New York, leaving no heirs or next of kin. Italy claimed the

property of the deceased under a "most favored nation" treaty clause. The court held that the treaty covered the disposition of the property of aliens dying within the territory of either signatory. Again, the Subcommittee is at a loss to explain why this case was ever cited even in the first instance.

Worcester v. Georgia.—Worcester, a white missionary, was convicted of residing within the Indian territory without a state license. The Supreme Court reversed the conviction. Astoundingly, this case has also been cited to the Subcommittee as having something to do with the power to dispose of public property; obviously, it does not. *U.S. v. 43 Gallons of Whiskey.*—Perhaps because of its intriguing style, this is also a case frequently cited by concurrent power theorists, but again its application to the issue is tangential at best. The case, as might be expected, involves 43 gallons of whiskey, and it is a case essentially irrelevant to the issue.

SUMMARY AND RECAPITULATION

The text of the Constitution itself indicates that the power of Congress to dispose of public property is an exclusive power which cannot be exercised concurrently by the President, with the advice and consent of the Senate, through the treaty-making power. Basic canons of construction dictate that express mention implies exclusivity and that the specific governs and limits the general. Construing properly the plain words of the Constitution thus leads to the final conclusion that the power of Congress to dispose is an exclusive power. This conclusion is bolstered by the history of the Constitutional Convention which shows that the issue of the treaty power versus the power to dispose was very much in the minds of the Framers. Article IV, Section 3, clause 2 was adopted to answer in part the argument advanced early during the Convention debates that the Senate with the President could alienate public lands without the consent of the Congress. Past treaty practice in dealing with Panama regarding United States property in the Panama Canal Zone also provides strong evidence that no promised disposition of public property can be legally made to Panama, or to any foreign sovereign, by a treaty except "subject to the enactment of authorizing legislation by the Congress." Other treaties which have been cited as disposing of territory without Congressional authorization are not treaties of cession but are rather treaties of recognition by which disputed claims to territory are adjusted and through which boundaries have been stabilized.

The judicial authorities are, in the main, inconclusive. However, those cases in which the extent of the power of Congress to dispose is controlling, notably *Sioux Tribe of Indians v. United States* and *Wisconsin Central R.R. Co. v. Price County*, do hold that the power of Congress is an exclusive power. These holdings are consistent with Story's remark in his famous *Commentaries on the Constitution of the United States*: "The power of Congress over the public territory is clearly exclusive and universal."¹⁶ All other cases which have been cited by both sides provide dicta only and ought to be ignored.

¹³ See *supra* at p. 24.

¹⁴ 133 U.S. at p. 272.

¹⁵ Statement of Dean Louis Pollak included briefly as Appendix II, at p. 60.

¹⁶ This case is cited and discussed in the report on the Panama Canal Treaties, at p. 69.

APPENDIX I

OPINION OF ATTORNEY GENERAL GRIFFIN B. BELL

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., August 11, 1977.

THE HONORABLE THE SECRETARY OF STATE.

The Honorable the SECRETARY OF STATE.

My DEAR MR. SECRETARY: Your letter of July 23, 1977, requests my opinion, in connection with the negotiation of a new Panama Canal treaty, on a question involving the treaty-making power of the President and its relation to the power of Congress to dispose of territory or property belonging to the United States. The question is whether a treaty may dispose of territory or property belonging to the United States without express statutory authorization.

1

The Constitution provides that the President shall have power to make treaties with the advice and consent of the Senate, if two-thirds of the Senators present concur (Article II, section 2, clause 2); and it provides further that treaties made under the authority of the United States shall be the "supreme law of the land" (Article VI, clause 2).

[illegible]

44 (1958).

A question that arose very early in our constitutional history was whether the existence of these congressional powers limits the powers of the President and the Senate to make law by treaty.¹ If a treaty touches a matter that Congress has power to regulate, can the treaty be given the force and effect of law, in and of itself, if Congress has not enacted legislation putting it into effect? The question of the President's power to make treaties has been a recurrent one in our history.

11

[illegible]

³ Indeed, the question arose in *Jay Treaty* with Great Britain (1794) and in *United States v. Schooner Peggy*, 1 Cranch 103 (1801), for the creation of certain commissions after President John Adams's presidential inauguration. Chief Justice Marshall took the view that the Treaty's of its own force was required to apprise the obligation as a matter of domestic law, and other Republicans took the view that the Jay Treaty nor any other treaty could require the making power of the legislative jurisdiction of Congress. *Trinitas Their Baking and Enameling*, 1 United States (2d ed. 1816): 1 W. Witherby, *The Constitution in Law*, Manual of Parliamen- tary Law (2d ed. 1929) 32 (deferring to the *Trinitas* decision). See also *United States v. The Albatross*, 12 Peters 310 (1844), where Chief Justice Marshall's dissenting opinion was cited as authority.

Inasmuch as the weight of the evidence does, therefore, indicate that Congress has exclusive power to dispose of United States property in the Isthmus of Panama, if such disposition is deemed to be desirable, then a statute authorizing it is required or else the disposition will be declared unconstitutional.

Professor BERGER. In my view any attempt of disposition without getting the concurrence of the Congress, including the House, would be void.

Senator HATCH. That is a strong statement. The House would not do that. I am not going to let Professor BENOZA. If I am right, if there is no executive branch, jurisdiction to dispose of property in the executive branch, if that power is exclusively in Congress, then the President if that power is exclusively in Congress, and if it is unconstitutional, it is void.¹⁶

¹⁰ Hearings before the Subcommittee on Separation of Powers on the Panama Canal Treaty, 95th Congress, 1st Session, November 8, 1977, in Part 3, at page 332).

Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands"

This Article, Chief Justice Marshall remarked, "must be intended to stipulate expressly for that security of private property which the laws and usages of nations would, without express stipulation, have conferred Without it (Article 9), the title of individuals would remain as valid under the new government as they received it under the old, and the security of (pre-existing) private property would be preserved by the title"

In short, the treaty provided that prior Spanish grants to private persons should be ratified and confirmed, a provision far removed from presidential "regulation" of public territory. Moreover, *Foster v. Neilson*, 27 U.S. (2 Pet.) 253, 314-315 (1829), a case cited by the Attorney General (A. G. at p. 3), held with respect to the self-same provision that "the ratification and confirmation which are promised must be by the Act of the Legislature." *I.e.* Congress. The citation to *Perechom* illustrates why I approach an Attorney General's statement with something less than awe.

II

Remarks to the Legislative History of the Constitution

(1) The Attorney General asserts that "(the members of the Convention were fully aware of the possibility that a treaty might dispose of the territory or property of the United States, A. G. at p. 6). . . . The ratification of the treaty of 1800, the ratification of the Louisiana Purchase The Senate by means of a treaty might alienate territory etc. without legislative sanction." A. G. at p. 6; 2 Farrand 297. This was during a debate on a resolution that "Each House shall possess the right of originating bills," when Mason seconded Strong's motion to "except bills for raising money for the purposes of revenue, or for appropriating the same." The Senate, said Mason, "could already sell the whole country by means of Treaties," plainly an extravagant overstatement, made at a time when the treaty was not under discussion. His "alienate territory" remark was not intended to present a strategic retreat from his untenable "sell the whole country" remark.

There follow a group of utterances that have reference to boundary disputes, *i.e.* conflicting claims to ownership to be settled by treaties of peace.

(2) When the Treaty of Peace affecting territorial rights should be made without concurrence of two thirds of the [members of the Senate present]. . . . A. G. at p. 6; 2 Farrand 583. Similarly, Gerry, speaking for a greater proportion of votes than any other member of the Convention, said that "the treaty of peace should be made in the fisheries, territories, etc. In treaties of peace also there is more danger to the extremities of the Continent of being sacrificed than on any other occasion."

A. G. at p. 6; 2 Farrand 541. The "extremities of the Continent" has reference to boundary disputes which do not really involve territory owned by the United States.

(3) "Sherman and Morris proposed but did not formally move," the Attorney General states, "the following provision, 'But no treaty (of peace) shall be made without the concurrence of two thirds of the Senate.' . . . which the territorial members of the United States may be contracted"

A. G. at p. 6; 4 Farrand 58. Farrand adds that "The subject was then debated, but the motion does not appear to have been made." *Id.* Why was the motion not made after debate? Presumably, the matter was postponed for consideration when Article IV, Section 3(2) would come up for discussion. During this subsequent discussion of "The Legislature shall have power to dispose of . . . the territory" it is singular that no mention was made of an exception for disposition under the treaty power. 2 Farrand 466. Nineteen members of the Convention, because such an exception would have been made, would have been remarkable. . . . The subject was then debated, and the motion was made, and the Convention was divided, and the motion carried, and the Convention proceeded to infer from the history that Article IV, Section 3(2) was designed to set at rest the fear that territory might be ceded without the concurrence of the House.

(4) The Attorney General cites an amendment proposed by the Virginia Ratification Convention as exhibiting the "awareness of the Framing Fathers" that the Constitution authorizes self-executing treaties. . . . The property of the United States, ... The Constitution shall be ratified without the concurrence of the members of the Senate (not merely of those present); and no treaty ceding, contracting . . . the territorial rights or claims of the United

States . . . shall be made, but in cases of extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

A. G. at p. 7; 8 Elliot, Debates on the Federal Constitution 660. The Attorney General's reading paradoxically transforms Madison's anxiety to have great safeguards, *i.e.* the concurrence of both Houses rather than the bare majority, into a mere formality. . . . The Virginia proposal testifies to the importance of the founders attached to the disposition of territory—no cession except "in cases of extreme necessity"—and it counsels against reading the equivalent of "making" to encroach upon the "power to dispose" that rests with the House of Representatives, not merely the Senate. In any event, it would be asked, should the Convention view of one State be permitted to override the plain terms of Article IV.

(5) H. H. Williamson, a delegate to the Convention, wrote to Madison on July 15, 1787, after the Convention had adjourned, "I have the honor to inform you that after the express purpose of preventing a majority of the Senate who are in the majority of the Convention, I have the honor to inform you that the members present to the Senate shall be required in making treaties"

A. G. at p. 7-8; 3 Farrand 306-307. Williamson's proposal presented a gnawing boundary question which threatened the expansion of the West and was or settled by the Louisiana Purchase. Boundary treaties do not really involve disposition of territory or property of the United States but the adjustment of territorial claims, even when some believe their claims to be more valid than those of the opposing party.

To my mind, the history is at best inconclusive: the remarks quoted by the Attorney General are confined to adjustment of boundary disputes, with a few exceptions, by treaties of peace. Treaties of peace involve special problems, such citations do not add up to generalization. . . . great jurisdiction over the disposition of government territory. . . . To go beyond such territorial adjustments collected to the rationale of *Pierston v. Ray*, 808 U.S. 547, 554-555 (1963) in their official capacity, the Court declared, "We do not believe that this principle was abolished by Section 1983, which makes liable every person in under color of law deprives another of his civil rights We presume that Congress would have specifically so provided had it wished to abolish the doctrine."

Thus, the all-inclusive "every person" was held not to curtail an existing common law immunity in the absence of a specific provision. The more equitable treatment now demands an even more exacting standard. Before it is concluded that it in any way diminishes the explicit grant to Congress of "the power to dispose" of territory, a clearly expressed intention to do so is required. The requirement is not satisfied by the random remarks collected by the Attorney General.

The Attorney General concedes that "the specific power granted to the House of Representatives and 2/3 clause 7, money bills and appropriations power) 1 and Article I, Section 7, clause 7(1), the power to regulate commerce with foreign nations, or the expenditure of funds. Were it otherwise, President and Congress could bypass the power of Congress and in particular of the House of Representatives over the pursestrings."

A. G. at p. 4-5. Now, sections nine and seven are couched in quite disjunctive terms. One, Section 9(7), is framed in terms of flat prohibition: "No money shall be withdrawn from the Treasury but in consequence of appropriation made by law." Section 7(1), on the other hand, merely provides: "All bills for raising revenue shall originate in the House." Yet, the Attorney General's reading of Section 7(1) to preclude the President and Senate from "bypassing" the power of Congress and in particular of the House of Representatives limits the pursestrings. What is there that distinguishes "All bills . . . shall originate in the House" from "The Congress shall have power to lay and collect taxes, the impalpability of the distinction is underlined by the State Depreciation Commission that "treaties may limit the power to lay and collect taxes." Section 8(1) "The Congress shall have power to lay and collect taxes, to regulate commerce, to borrow money, to issue bonds, to coin money, to fix the standard of weights and measures of the United States."

It from the Article IV "The Congress shall have power to lay and collect taxes, to regulate commerce, to borrow money, to issue bonds, to coin money, to fix the standard of weights and measures of the United States."

It is clear that the property ceded by the United States in the Panama Canal Treaty is "Territory or other Property belonging to the United States," within the meaning of Art. IV, Sec. 8, cl. 2, of the Constitution.

Article 2 of the 1903 treaty between the United States and the Republic of Panama "grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal." Article 8 of the same treaty grants to the United States "exclusive control within the zone of the canal, and within the United States territory within which the canal is to be located, all the rights which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters were located, to the entire exclusion of the exercise of all such sovereign rights by the Republic of Panama."

It is interesting to compare the language of the 1903 treaty with the earlier treaty of 1846 between the United States and the Republic of Colombia and the predecessor in ownership of the Isthmus of Panama to the United States, the Republic of Panama. In Article 35 of that treaty the United States undertook to guarantee "the rights of sovereignty and property" of the Republic of New Granada over the Isthmus. [9 Stat. 881; see Moore, *A Digest of International Law* (1906), Vol. III, 5-6]. The 1903 treaty, by contrast, is strong in the affirmation of sovereign rights within the United States.

In *Wilson v. Shaw*, 204 U.S. 24, 27 S. Ct. 233, 235 (1907), the Supreme Court declared, "It is impractical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate." As the Fifth Circuit Court of Appeals held in *United States v. Hunsland R. (Roch)*, 1463 F.2d 1064, 1067, 1069 (5th Cir., 1971), cert. den., 405 U.S. 935 (1972), "The Canal Zone is an unincorporated territory of the United States" to which applies the power of Congress "to make all needful laws to be executed by the Territorial or inferior courts of the United States." The Supreme Court, in *United States v. Hunsland R. (Roch)*, 1463 F.2d 1064, 1067, 1069 (5th Cir., 1971), cert. den., 405 U.S. 935 (1972), stated that the power of Congress "to make all needful laws to be executed by the Territorial or inferior courts of the United States" confers on Congress, and the Territorial or inferior courts, the power to legislate over the Canal Zone. In contrast to this, however, is whether the grant of power to Congress is to be construed to disempower the Territorial or inferior courts. The power of Congress of the territory and property of the United States is exclusive or concurrent.

concurrent. If the grant is concurrent, that is, if it may be exercised by the Executive as well as Congress, then it would be proper for the Executive to make a self-executing treaty disposing of such property without the necessity of implementing legislation by Congress. If, however, the grant of such power is exclusively to Congress, the treaty would not be self-executing and such implementing legislation would be necessary.

The power of disposition provided in Article IV, Sec. 8, clause 2, does not explicitly exclude concurrent power of disposition in the Executive. Also, Article IV generally deals with the relations between Congress and the Executive. The V Congressional power in this regard. The Court has consistently ruled that the Congressional power is controlling over state legislation. [See Annotation, 1919 L. 1239, 1248.] In sustaining the Wild Free-Roaming Horses and Burros Act, the Supreme Court stated in 1916 that "we have repeatedly asserted that [t]he power over the public lands belongs to the United States." [*Wright v. United States*, 248 U.S. 149, 158.] See *Francisco*, 310 U.S. at 29. [*Kleppe v. New Mexico*, 417 U.S. 529, 539 (1974).]

In re Wisconsin Railroad Co. v. Price County, 133 U.S. 406, 404 (1890), the Supreme Court said, "The Constitution vests in Congress the power to 'dispose of and make all useful rules and regulations respecting the territory or other property belonging to the United States.' And this implies an exclusion of all other authority over the property which would interfere with this right or obstruct its exercise." And in *Utah Power and Light Co. v. United States* (248

1 U.S. 350, 404 (1918)), the Court said: "Not only does the Constitution [Art. Sec. 3, cl. 2] commit to Congress the power 'to dispose of and make all needful regulations respecting' the lands of the United States, but the settled course of legislation, congressional and state, and repeated decisions of the Court have gone upon the theory that the power of Congress to dispose of United States property is exclusive and that only through its exercise in some form are the rights in lands belonging to the United States being accomplished."

There is no Supreme Court decision clearly deciding whether a treaty disposing of property must be submitted to the entire Congress for approval. Nor is there any definitive Supreme Court ruling as to whether the power to dispose of territory and property, in Art. IV, Sec. 3, cl. 2, is exclusive in Congress or concurrent with the Executive.

Nor do the debates in the Constitutional Convention and the actions of the state ratifying conventions provide any clear guidance on these points. There is some incidental discussion but nothing conclusive. George Mason, in arguing that the House of Representatives alone should have the right of originating revenue bills, argued rhetorically that the "Senate would already sell the whole continent by means of Treaties" and that "the Senate by means of treaty might alienate the rights of the people without the consent of the people."¹ Farrand, Records of the Federal Convention, II, 297. However, it is interesting that such an enormous precedent was not followed. The House of Congress exercised no such power. The power of the Senate and Congress to dispose of property, the relation between the two, and Congress' power to censure property.

Attorney General Griffin B. Bell, in his statement before the Senate Foreign Relations Committee on September 29, 1977, emphasized that the Ratification of Virginia proposed the following amendment to the Constitution: "That no commercial treaty shall be ratified without the concurrence of two-thirds of all the members of both Houses of Congress." The amendment was intended to prevent the United States from entering into any treaty that would surrender or suspend the territorial rights or claims of the United States, or of any of them, on their, or any of their rights or claims to fishing in the American sea, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity, of the whole number of the majority of both Houses of Congress, and of two-thirds of both Houses of Congress, respectively." Elliot, "Debate on the Federal Constitution," Vol. 690.

[illegible]

the process of annexing United States territory by treaty. "There is nothing the treaty power is very broad but it is not unlimited. 'There is nothing the treaty power' which intimates that treaties and laws enacted pursuant to them do not have to comply with the provisions of the Constitution." [Rcn] 354 U.S. 1. 16 (1957)]

Congress, 334 U.S. 1, 10 (1948). Justice Brandeis noted, "there are many authorities" in *Bruden v. Joy*, the Supreme Court sent to a grantee a good title to [lands belonging to the United States] without an act of Congress conferring it, and that Congress has in no constitutional fashion sought to settle or interfere with rights under treaties, except in cases purely political." (*Bruden v. Joy*, 334 U.S. 1, 211, 247 (1948)). The authorities cited by the Court for this proposition are distinguishable. Most importantly, this statement of the Court was only a dictum as the thrust in the Court's opinion was to uphold the government's position in this case, as the thrust in *Quest* was to uphold the plaintiff's position.

Interest to the Indians. Such an Interest was granted only in reservations made by "treaty or statute." In the latter cases, the power of the Executive depended on congressional approval: "Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any Interest in these lands must be traced to Congressional delegation of its author-
" 1316 U.S. at 3291

ity." [1310 S. at 326]. The Indian treaties cannot be regarded as authority for the converse, or that the United States may exercise foreign power by treaty without Congressional authorization. Even where those treaties or agreements conveyed a fee simple in land, that interest remained subject to the United States power of eminent domain. And even the converse of that interest, acquired by the United States, required a congressional delegation of authority to the Executive. If follows that the United States' power of sovereignty involved in the Panama Canal Treaty should require Congressional action even more strongly than the United States' power of eminent domain in the case of Indian treaties.

Another longstanding type of case from past experience has the sort of tortiousness that characterized the *Webster-Ashburton* Treaty of 1842, ended land claims Great Britain which had been under dispute. [8 Stat. 571.] Congress implemented the treaty by appropriating money to carry out the claims. [See Ch. 80, 5 Stat. 623.] The 1946 Oregon Treaty also involved the cession to Great Britain of United States claims to land then in dispute. [49 Stat. 869.] Congress implemented the treaty by passing an act to organize the government of the Oregon Territory. [9 Stat. 323.]

The Alaska Treaty of 1905 [32 Stat. 1981] established a tribunal to settle boundary disputes with Great Britain. The tribunal awarded the disputed territory to the United States and Great Britain. [See Bemis, A Diplomatic History of the United States and Great Britain, 1905-1907, 927.] Congress implemented the treaty by carrying out. [1903, 132 Stat. 131.]

The Chemical Convention with Mexico in 1943 provided: "After this convention has entered into force and the necessary legislation has been enacted for carrying out the two Governments shall . . . determine the period of time appropriate for the Government of the United States to complete the following: (a) The lands owned by the Government of Mexico which are to be transferred to Mexico."

acquisition, in conformity with section 178 Stat. 194 [151 S. T. 2].

Congress thereafter enacted legislation to authorize the Secretary of State "to acquire by donation, purchase, or condemnation, all lands required for transfer to Mexico as provided in said convention" and "to convey or exchange to Mexico as provided in said convention" [178 Stat. 194].

Mexico properties acquired. 178 Stat. 1841.

The major point to be made about boundary dispute treaties in that they are different from the Panama Canal Treaty is that they do not involve disputed land. Where there is a colonization treaty, it cannot be said to involve an unambiguous transfer of land to a settler or other property belonging to the United States, even though the meaning of Art. IV, Sec. 3, 2. Those boundary settlement treaties, even the ones found to be lacking in Congressional approval, are not controlling on the question of Indian Land Treaty's issue.

The Lend Lease program, instituted in 1940, involved the transfer of United States property to Great Britain. However, Attorney General Robert Jackson, in his opinion to the President, found that there was "ample statutory authority" for the disposal. It was therefore unnecessary to rely on Presidential authority for the Panama Canal Treaty issue.

alone. (29 Op. A. 484, 488 AUGUST 27, 1940)

over the United States Friendship Act 1975 [22 U.S.C. 290(a)(2)].

In 1897, Attorney General John W. Griggs issued an opinion on the alienation by the President or Secretary of War of United States property in Puerto Rico to a private person. The Attorney General said, "there is no legislation by Congress made for or property applicable to the public domain in Puerto Rico. The power to dispose permanently of the public lands and public property in Puerto Rico rests in Congress, and in the absence of a statute conferring such power,

has been fully carried into effect, and the provisions have been repeatedly recognized by Congress as valid." [Ibid.]

In *Andruka v. Seattle*, 256 P.2d 322, 323 (1954), the Supreme Court held that the treaty making power of the United States "is not to be extended so far as to authorize what the Constitution forbids. It does extend to all proper subjects of negotiation between our government and other nations." The Court also noted that the treaty in that case "operates of itself without the aid of any legislation, statute, or Regulation," and "will be applied and given authenticating effect by the Executive under the treaty income trade" in the United States. It did not involve in any way the power to dispose of United States property granted to Congress in Art. V, Sec.

3, et al., *in* the Constitution, 133 U.S. 258 (1900), a convention with France guaranteed the right of French citizens to inherit property in the United States. The Court held that the convention prevailed over the contrary law of Maryland so as to authorize the inheritance by a French citizen of property in the territory of Columbia. "The treaty power, as expressed in the Constitution, is in fact unlimited except by those restraints which are found in that instrument against the action of the government or its departments, and those arising from the im-

that of the government itself and of that of the States. It would not be considered that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States. *See Food, Tea and other parts of the territory*. U.S. 205, 531. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country. *Ware v. Hylton*, 3 Ekl. 191; *Cheney v. Conn.*, 2 Wheat. 204; *Harden v. Gray*, 100 U.S. 453; 8 Opinions Atty. Gen. 411; *The People v. Gray*, 6 California

However, while the convention was in effect, Congress adopted the Maryland law as the law of District of Columbia, but suspended that law insofar as it conflicted with the convention. This amounted to a clear adoption by Congress of the terms of the convention. More significantly, the *Geoffroy* case did not involve the transfer of any property owned by the United States. The dilemma in the *Geoffroy* case is very broad but its generalizations should be limited to the facts

While judicial decisions do not comprehensively define Congress' property interests in relation to the treaty power, there are several instances where the accepted practice among the Congress, Executive and the Judiciary, has supported the conclusion that Congress' power is exclusive.

Many treaties and executive agreements with Indian tribes have involved the transfer of real property but even where the treaty or executive agreement

In *Cherokee Nation v. Southern Railway Co.*,¹ the Supreme Court held that the Cherokee Nation holds its lands in fee-simple under pre-Confederate law. The fact that the Cherokee Nation holds these lands in fee-simple under

APPENDIX II

CAN THE UNITED STATES Cede TO PANAMA, BY TREATY, UNITED STATES RIGHTS IN THE TERRITORY AND INSTALLATIONS OF THE CANAL ZONE?

On November 4, 1917, Senator Allen placed in the Congressional Record a statement by Raoul Berger, former Charles Warren Fellow at Harvard University, made in hearings on the Panama Canal Treaties held by the Senate Subcommittee on Separation of Powers. The thrust of Mr. Berger's statement was that cession to the Republic of Panama of such title as the United States possesses in (1) territory in the Canal Zone, and (2) United States installations in the zone cannot constitutionally be effectuated by treaty, but only by statute for the reason that the disposition of territory and other property of the United States is vested by Article IV, § 3(2) of the Constitution exclusively in Congress. Mr. Berger is a constitutional lawyer and his opinion of great distinction, whose scholarly work has enriched our understanding of many aspects of the Constitution, and so it is appropriate to pay close attention to his views on major constitutional questions. Nonetheless, careful examination of the arguments advanced by Mr. Berger persuades me that in this instance he is in error. It is my submission that the proposed treaties with Panama, if consented to by the constitutionally required two-thirds of the Senate and duly ratified by the executive branch, will of their own force accomplish the cession to Panama of the territory and the installations in question

A

THE DEVELOPMENT OF TREATY PRACTICE AND TREATY DOCTRINE

1. Broadly stated, Mr. Berger's thesis is that the treaty power, which the Constitution vests in the President and the Senate, but does not define, cannot be read as giving to the President and the Senate power concurrent with the powers specifically delegated to Congress by Article I, § 8, Article IV, § 3(2), and other provisions of the Constitution. The thesis is not a new one. It was strongly advanced in 1975, in opposition to the Jay Treaty; and it was strongly resisted by no less a constitutional authority than John Marshall—the Virginia legislator who was later to be a Congressman, then Secretary of State, and finally Chief Justice. Beveridge, in his authoritative biography of Marshall, sums up the argument:

Among the many objections to the treaty, the principal one . . . was that it violated the Constitution. The treaty regulated commerce; the Constitution gave that power to Congress, which included the House of Representatives; yet the House had not been consulted. . . .

cannot be exercised by the Executive department of the government." (22 Op. Atty. Gen. 644, 645 (1899).)

With respect to the Panama Canal Zone itself, the 1942 Congressional proceeding, in which the transfer of the Canal Zone to Panama was effected by executive agreement which was then submitted to both houses for approval. It was objected by some Senators that it should have been done by treaty. Senator Connally, Chairman of the Senate Foreign Relations Committee, responded to these objections:

Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty.

Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. So, if we had a formal treaty before us and if it should be ratified, still it would be necessary for the Congress to act on it. I think it is a mistake to think that the title to the particular tracts of land, because "the Congress" means both bodies, The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise. [86 Cong. Rec. 9287]

In the House of Representatives, the Committee on Foreign Affairs stated in its report: "Congressional approval of the Executive commitments to Panama is sought in the form of legislation because there is involved (a) a disposition of property of the United States and (b) an assumption of responsibility for the property of the United States, power, independently of the treaty-making power." (House Report No. 78-271, p. 6.)

There is abundant authority that Congress' power under Art. IV, Sec. 3, cl. 2, in "without limitations" in contexts other than the present sort of treaty controversy. (Annotation, 406, Ed. 2d 1230, 1240.) Nor is there any sufficient reason for treating that Congressional power as less extensive in the treaty context. Art. IV, Sec. 3, cl. 2, represents a division by the Constitutional Convention of the States' power to make treaties with foreign States and the power of the United States government and not of the individual States. Moreover, the specific grant of that power only to Congress was not accidental. As the most broadly representative branch of government, it is appropriate that Congress be the only body to alienate from the American people that which is theirs. The treaty power does not confer on the President and two-thirds of the Senate a power to change the constitutional distribution of powers in any respect. Such power is not necessary to the orderly conduct of foreign relations and it is not necessary to the confidence in the character of the representative branch of the United States Government.

It must be remembered that Senate ratification of a treaty requires approval of "two-thirds of the Senators present." Executive agreements, which are very similar in power to treaties, [See *United States v. Belmont*, 301 U.S. 324 (1937); *United States v. Pink*, 315 U.S. 203 (1942)] do not require any Congressional consent at all.

I hope that the consideration of the Panama Canal treaties, including particularly the treaty proposed by the United States government, will provide occasion for the reaffirmation of the Congressional power with respect to the disposition of the territory or other property of the United States. Congress' power in this area ought to be regarded as exclusive. The American people ought to be deprived of their territory and property only by action of that governmental body most responsive to public opinion. That body is the entire Congress and most especially the House of Representatives.

... Marshall's position was that a "treaty is as completely a valid and obligatory contract when negotiated by the President and ratified by him, with the assent and advice of the Senate, as if sanctioned by the House of Representatives also, under a constitution requiring such sanction"; and he admitted only that the powers of the House in reference to a treaty were limited to granting or refusing appropriations to carry it into effect.¹

3. Marshall's position anticipated the pattern which has in fact characterized the utilization of the treaty power. As Secretary of State (former Congressman, former Senator and former Vice President) John C. Calhoun observed in 1814, "From the beginning and throughout the whole existence of the Federal Government it has been exercised constantly on commerce, navigation and other delegated powers." *Q. Wright, The Control of American Foreign Relations* (1922) 314. Moreover, such treaty provisions have routinely been treated as self-executing except where, as Professor Louis Henkin has put it in his definitive work, "the treaty makers voluntarily left some subjects to legislative work, [e.g., international tariffs and trade]."
Henkin, Foreign Affairs and the Constitution (1972) 149. Although the treaty-makers have generally supposed the treaty power to be concurrent with that of Congress with respect to commercial regulations, the disposition of American territory and other government property, and most of the other powers expressly lodged in Congress by the Constitution (and have routinely been sustained in the supposition) they have customarily felt obliged to seek statutory implementation of treaties touching the area of Congressional authority with respect to which Marshall felt action by the House of Representatives was constitutionally indispensable—namely, "granting . . . appropriations."

The reason for acknowledging an exclusivity in Congress with respect to the appropriations power, but not with respect to most of its other powers (the regulation of commerce, the disposition of the property of the United States, etc.) arises from the text of the Constitution. Most legislative powers are merely couched in the familiar phrase, "Congress shall have power . . ." a phrase which, syntactically, does not preclude concurrent authority in the President and Senate as treaty-makers. But the spending power, although couched in the same general form, is also subject to an express constitutional limitation—"No money shall be drawn from the Treasury, but in consequence of Appropriations Made by Law . . ." [Article I, § 9(7)]—a limitation which arguably requires statutory implementation of a treaty commitment to make expenditures.²

11. *Id.* *Remember, The Life of John Marshall* (1916) 133-36. For tactical purposes, Marshall was to have argued that the Jay Treaty was so drawn as to leave to the House of Representatives the way to determine whether to implement the commercial aspects of the Treaty. But Marshall's constitutional position was that the President alone could execute the Treaty. With Marshall's constitutional definition of the potential scope of the treaty power, *Id.*
12. *Id.* *arguably*, because no such restriction on the treaty power was indicated by the Constitution. Cf. *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304 (1937), 133 U.S. 278, 267 (1890), quoted in the text *infra*, at note 6. Textual analysis akin to that dealing with the appropriations power provides the basis for the argument that President Madison's "all Bills for raising Revenue shall originate in the House of Representatives" (Article I, § 7(1)), Congress, cover to declare war may originate in the House (Article I, § 8(1)). See the quotation from Calhoun in the text *infra*, at n. 3.

4. The thesis which John Marshall steadfastly resisted in 1795 was adopted by Marshall's great rival, Thomas Jefferson, in his *Manual of Parliamentary Practice*. Jefferson—who as Secretary of State, Vice President and President "was no friend of the Treaty Power," [Henkin, *supra* at 142]—set forth four propositions, the second and fourth of which were as follows: "2. by the general power to make treaties, the Constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and can not be otherwise regulated. . . . 4. And also to except those subjects of legislation in which it gave a participation to the House of Representatives." *Ibid.* Marshall was not the only one of Jefferson's great contemporaries who was in persuasible by Jefferson's narrow view of the treaty power. Justice Story noted that "the power to make treaties" is by the Constitution general; and that of course it embraces all sorts of treaties, for peace or war; for commerce or territory; for alliance or succours; for indemnity for injuries or payments of debts; for the recognition and enforcement of principles of public law; and for any other purposes, which the policy or interests of independent sovereigns may dictate in their intercourse with each other." [11 *J. Story, Commentaries on the Constitution of the United States* (1833) 355.]

Story acknowledged that the treaty power was not unlimited: "A treaty to change the organization of the government, or annihilate its sovereignty, to overturn its republican form, or to deprive it of its constitutional powers, would be void; because it would destroy what was designed merely to fulfill, the will of the people. Whether there are any other restrictions, necessarily growing out of the structure of the government, will remain to be considered, whenever the exigency shall arise." *Id.* at 356. And then, in a footnote, Story dispatched Jefferson's constitutional doubts: "Mr. Jefferson seems at one time to have thought that the Constitution only meant to authorize the president and senate to carry into effect by way of treaty, *any power they might constitutionally exercise*. At the same time he admits, that he was sensible of the weak points of this position. 4. Jefferson's Corresp., 498. What are such powers given to the president and senate? Could they make appointments by treaty?"

5. Marshall and Story were early expositors of what—Jefferson and a few others apart—has always been the orthodox view that the President and the Senate, in making treaties, can regulate almost every subject matter also entrusted to the legislative authority of Congress. But it fell to Calhoun—speaking as a Congressman, a quarter-century before he became Secretary of State—to explain, with more precision than either of the great Justices achieved, the scope of the treaty power and the constraints which other parts of the Constitution impose upon its exercise [29 *Annals of Congress* 530-31 (Jan. 9, 1816)].

The grant of the power to make treaties is couched in the most general terms. The words of the Constitution are that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds

13. *Id.* at n. 2 (emphasis in original). That Story and Marshall were well aware that the treaty power includes authority to cede American territory is evident from the change of letters between Governor Edward Everett and Story set forth in Appendix A.

treaty-makers—the power to dispose of American territory and other property. The matter was clearly put over sixty years ago by Dr. Samuel Crandall in his illuminating comparative study of the treaty power:

In respect of territory not within the boundaries of a State, the central government exercises, subject to the express prohibitions of the Constitution applicable thereto, all the powers of government enjoyed by both the central and State governments over territory within the limits of a State. Accordingly, the power to reside in the territory, if it exists as a power of government, resides in the organs of the central government. That the consent of the inhabitants of the territory to be ceded is essential to give validity to the transfer cannot be maintained. The power to cede outlying territory is no less essential to the full exercise of the treaty-making power of the United States, which "extends to all the proper subjects of negotiation between our government and the governments of other nations," than is the power to acquire. Various treaties have been concluded by which the United States has relinquished extraterritorial rights theretofore enjoyed in other countries.⁴

II.

JUDICIAL RECOGNITION THAT THERE IS A TREATY POWER TO DISPOSE OF AMERICAN TERRITORY WHICH IS INDEPENDENT OF THE CONCURRENT CONGRESSIONAL POWER

1. Dr. Crandall, as Mr. Berger has observed, is "a respected commentator." Text of Berger Statement, at note 42. But the decisive question is whether Dr. Crandall's view of the treaty power—incompatible with Jefferson's, but consonant with that of Marshall, Story, and Calhoun (and Professors Wright and Henkin)—is in accord with the views expressed by the Supreme Court. The answer is in the affirmative.

2. "It is settled," said the unanimous Court in *Jones v. Meehan*, 175 U.S. 1, 16 (1899), "that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States." This proposition, validating the power to a treaty American territory by treaty, was central to the disposition of *Jones v. Meehan*. The principal issue before the Court was whether the Treaty with the Chippewas of 1863 conveyed full title to Chief Moose Dung of "six hundred and forty acres near the mouth of Thief River." The Court's holding was that:

The title to the strip of land in controversy having been granted by the United States to the elder chief Moose Dung by the treaty itself, and having descended, upon his death, by the laws, customs and usages of the tribe, to his eldest son and successor as chief, Moose Dung the younger, passed by the lease executed by the latter in 1891 to the plaintiffs for the

⁴ R. Crandall, *Treaties, Their Making and Enforcement* (2nd ed., 1916) 224-237. For concrete examples, see id. at 227-28.

of the Senate concur. In a subsequent part of the Constitution, treaties are declared to be the supreme law of the land. Whatever limits are imposed in those general terms ought to be the results of the construction of the instrument. There appeared to him but two restrictions on its exercise: the one derived from the nature of our Government, and the other from that of the power itself. Most certainly all grants of power under the Constitution must be controlled by that instrument; for, having their existence from it, they must of necessity assume that form which the Constitution has imposed. This is acknowledged to be true of the legislative power, and it is doubtless equally so of the power to make treaties. The limits of the former are exactly marked; it was necessary to prevent collision with similar coexisting State powers. This country is divided into many distinct sovereignties. Exact enumeration here is necessary to prevent the most dangerous consequences. The enumeration of legislative powers in the Constitution has relation then, not to the treaty power, but to the powers of the State. In our relation to the rest of the world the case is reversed. Here the States disappear. Divided within, we present the exterior of undivided sovereignty. The wisdom of the Constitution appears conspicuous. When enumeration was needed, there we find the powers enumerated and exactly defined; when not, we do not find what would be vain and pernicious. Whatever, then, concerns our foreign relations; whatever requires the consent of another nation, belongs to the treaty power; can only be regulated by it; and it is competent to regulate all such subjects; provided, and here are its true limits, such regulations are not inconsistent with the Constitution. If so they are void. No treaty can alter the fabric of our Government, nor can it do that which the Constitution has expressly forbade to be done; nor can it do that differently which is directed to be done in a given mode, and all other modes prohibited. For instance, the Constitution of the United States says, no money "shall be drawn out of the Treasury but by an appropriation made by law." Of course no subsidy can be granted without an act of law and a treaty of alliance could not involve the country in war without the consent of this House. . . .

6. As Professor Henkin recently observed, Jefferson's conception of the treaty power "would outlaw treaties on matters as to which Congress could legislate domestically" and thus "would virtually wipe out the Treaty Power." *Henkin, supra* at 149. But Jefferson's conception, as Professor Quincy Wright stated over half a century ago, was "highly erroneous and incomplete." *Wright, supra* at 123. It is a conception which, as Professor Henkin has noted, "[e]ven in Jefferson's day . . . was hardly accepted by all; it has now been long dead. Treaties have dealt with many matters that were also subject to legislation. . . . The House of Representatives has frequently bristled, but its exclusion from the treaty process was the clear constitutional plan. . . ." *Henkin, supra* at 149. In short, Calhoun has won the day.

7. Among the many legislative powers which can also be exercised by treaty is the particular power which Mr. Berger would deny to the

necessarily growing out of the structure of the government will remain to be considered whenever the exigency shall arise."

The restriction in question (if it exist) must be one of this character, and I should prefer to follow your wise counsel, and let it remain to be considered, when the exigency arises. The present controversy does not appear to me to create such an exigency, for it is a question not of ceding an admitted portion of the territory of Maine, but of ascertaining the boundary between the British territory and ours. The resolve of the legislature, however, raises the abstract question, and I wish your advice, whether I can safely affirm it.

I am, dear Sir, with the highest respect, And Sincere attachment.

Faithfully yours,

EDWARD EVERETT.

I would observe, that it is my present inclination, if I do not sign the Resolves, to let them pass *sub silentio*, as they are only expressions of the opinions of the legislature.

To His Excellency EDWARD EVERETT.

CAMBRIDGE, April 17, 1838.

MY DEAR SIR: In reply to your favor of the 14th inst. which I received by yesterday's mail, I beg to say, that I consider the Resolve referred to as very objectionable as a matter of Constitutional Law. I cannot admit it to be universally true, that the Constitution of the United States does not authorize the government of the United States "to cede to a foreign nation any territory within the limits of the States of the Union." If the proposition is true, then in case of a war, it would be incompetent for the government by a treaty to cede any territory conquered during the war, and which might be indispensable to purchase peace. So a cession could not be made, even with the assent of the State within which the territory was situated; for neither the State nor the United States could alone cede it, and then both could not. Yet the cession might be of a nature calculated for the safety of both nations, and might be an equivalent for a like cession on the other side.

I remember to have had some conversation with Mr. Chief Justice Marshall, some years ago, when the subject was under discussion, with reference to the contested boundary in Maine. He was unequivocally of opinion, that the treaty-making power did extend to cases of cession of territory, though he would not undertake to say that it could extend to all cases; yet he did not doubt it must be construed to extend to some.

It appears to me that our legislature have very unnecessarily, and (as I think also) against our true public policy with reference to the contested boundary of Maine, stated this proposition. It may embarrass the government in its negotiations; and it is wholly gratuitous—since, in a case of contested boundary, there is no pretence to say that an ascertainment of the true boundary involves the question of cession.

I always look with alarm and regret upon all attempts of our legislatures to settle constitutional questions in the heat of controversy, and under the impulses of party. Nor do I think that Massachusetts ought to commit herself upon any doctrine of this sort, at this time. I doubt its soundness; but I do not at all doubt its inexpediency. The time

may arrive when our very existence and salvation as a nation, may depend upon the exercise of this very power. If the national government does not possess it, it is to all intents and purposes an extinguished right of sovereignty, for the States do not possess or retain it.

I see no objection to your leaving the resolve to its constitutional operation, *sub silentio*, if you think it best not to return it to the legislature with objections. I think the doubt of a constitutional point furnishes of itself a sufficient ground for rejecting a resolve embodying a positive declaration of it, unless there be an absolute necessity for such declaration on the subject.

What I have written I must ask you to consider as confidential, though I do not mean by this to say that I should object to its being seen by any of our confidential friends, such as Mr. Webster, if you should wish to consult him.

Believe me, with the highest respect,

Truly yours,

JOSEPH STORY.

MEMORANDUM

Re Panama Canal Treaty: Dean Louis Pollak's Reply.

To: Senator Dick Clark.

From: Raoul Berger.

FEBRUARY 1978.

Dean Louis Pollak has favored me with a copy of his critique of my statement before the Subcommittee on the Separation of Powers addressed to you under date of January 19, 1978. I am honored by his expressions of esteem, and his sentiments are warmly reciprocated. High regard for his attainments, however, may not inhibit the expression of scholarly differences on a great constitutional issue; it requires careful study of the alleged infirmities that have persuaded him that I am in error.

At the outset I must disclaim the version of the issue that he attributes to me, namely that the Panama cession "cannot be effectuated by treaty, but only by statute." My objection is to a "self-executing" treaty because Article IV of the Constitution requires Congress' consent to the disposition.

The starting point of analysis must be the Constitution itself, not what others have said about it. A great British scholar, W. S. McKechnie, faced by contrary opinion of respected scholars, stated, "the truth of historical questions does not depend on the counting of votes or the weight of authority" but rather on the historical record.¹ So too, in the construction of the Constitution, the document is always here to speak for itself. On this score I cannot improve upon John C. Calhoun, then a Congressman, whose remarks in the House respecting the treaty power are quoted *in extenso* by Dean Pollak, stating that Calhoun explained "with more precision than either [Marshall or Story] achieved, the scope of the treaty power and the constraints which other parts of the Constitution impose upon its exercise." Said Calhoun: "Whatever limits are imposed in these general terms ought to be the results of the construction of the instrument." The treaty

¹ W. S. McKechnie, *Magna Carta 1208* (1905).

power, Calhoun continued, is competent "to regulate all subjects" that require "the consent of another nation,"

provided, and here are its true limits, such regulations are not inconsistent with the Constitution. If so they are void.

No treaty can . . . do that differently which is directed to be done in a particular given mode. (Emphasis added.)

Quoted Pollak 7-8. In terms of the present issue, a treaty may not "dispose" of the Panama Canal without the consent of Congress because Article IV confers that power on Congress.

Here Calhoun applies a rule of construction—the specific governs the general—upon which the administration has refrained from comment, and which remains unmentioned by Dean Pollak: "A broad statutory provision will not apply to a matter specifically dealt with in another part of the same act."¹ Then there is the complementary rule—express mention implies exclusion of the unmentioned—or as held by the Supreme Court, "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode."² Although the exclusion of the treaty power was not before the Court, it tacitly ratified the application of the foregoing rules when it stated that Article IV "implies an exclusion of all other authority over the property which could interfere with this right . . .".³ From the beginning such rules of construction were respected; Justice Story recommended the "excellent summary of the rules for construing statutes" in Bacon's Abridgment.⁴ If there is any doubt as to the legislative intent—Deputy Assistant Attorney General Ralph E. Erickson testified in 1871 (before Panama became a political issue) that the issue "is not altogether free from doubt"—such rules serve as a guide to construction. Such "doubt" counsels against invasion of a power explicitly conferred on Congress; a clear case for the "current power" is needed in the teeth of the express grant.

The treaty power is given to the President "with the advice and consent of the Senate." Without question the House is thereby excluded from participation in treaty making. By parity of reasoning, the "Congress shall have power to dispose" equally bars its exercise by the President and Senate. It is no adequate answer to say, as does Dean Pollak, that the "Congress shall have power" phrase "syntactically, does not preclude concurrent jurisdiction in the President and Senate as treaty makers." (Pollak 4). For grammatical syntax must yield to established canons of construction which show that Article IV "implies an exclusion of all other authority." One who disputes the results to which traditional canons lead has the burden of proof to show they are inapplicable.

¹ *Le Page v. United States*, 146 F. 2d 536, 538 (8th Cir. 1945); see also *Quasberg & Son v. Poplin*, 285 U.S. 204, 208 (1932); *Belva Natl. Ins. Co. v. Miller*, 269 Fed. 570, 574 (D.C. Cir. 1916).
² *Boehm v. Westbrook*, 278 U.S. 282, 289 (1929) (emphasis added).
³ *T.M.F. v. United States*, 350 U.S. 464, 471 (1956). "We find this principle in the *Motor Carrier Act* which established that right in Part I (for railroads) were wholly within the very actions which established that right in Part I (for railroads) were wholly omitted in the *Motor Carrier Act* . . . 133 U.S. 404, 504 (1890) (emphasis added); *Winters v. United States*, 333 U.S. 137, 144 (1948); *United States v. Grimaud*, 220 U.S. 513, 517, 525 (1909); *United States v. Grimaud*, 220 U.S. 513, 517, 525 (1909); *United States v. Grimaud*, 220 U.S. 513, 517, 525 (1909).
⁴ *Story*, *Commentaries on the Constitution of the United States* 305 n.2 (5th ed. 1891).
⁵ Hearings before the House Subcommittee on the Panama Canal on "Operation Affecting the Operation of the Panama Canal (95th Cong. 2d Sess.)" p. 86 (December 2, 1971).

Dean Pollak leads off with an appeal to John Marshall's remarks as a young Congressman on the Jay Treaty. In considering those and other remarks, it is constantly necessary to distinguish between the treaty making process and any subsequent exercise of power by the House. That distinction was clearly drawn by Marshall. Washington had submitted the treaty for ratification to the Senate along with some instructions to the Minister who had negotiated it; but he refused them to the House on the ground that it had no right to participate in treaty making. Among the objections by the House, to quote Albert Beveridge's "Life of John Marshall," invoked by Dean Pollak, were that though the "treaty regulated commerce . . . the House had not been consulted," that though "the raising and expending of public money must originate in the House," it had been ignored. The question raised, said Beveridge, was "whether a commercial treaty, or an international compact requiring an appropriation of money . . . could be made without the concurrence of the House as well as the Senate." To this Marshall replied that it was "more in the spirit of the Constitution" for the National House to refuse support after ratification than to have a treaty "stuffed in embryo" by the House passing on it before ratification.⁵ Exclusion of the House from treaty making did not mean for Marshall that the House would be denied its function after ratification. Dean Pollak reads this as a "factual concession" that was "not at odds with Marshall's constitutional definition of the potential scope of the treaty power." (Pollak 3n). If this was merely "factual concession" then his entire statement was a political "tactic," for Marshall gave no clue as to when he spoke as politician and when as constitutional sage.

Attorney General Griffin B. Bell conceded in his statement before the Senate Foreign Relations Committee, September 20, 1977, pp. 4-5, that the Senate and President may not "bypass the power of Congress and in particular the House of Representatives" in the "raising of revenue or expenditure of funds." What distinguishes "all bills . . . shall originate in the House" from "The Congress shall have power to dispose of" the thinness of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes." Nothing in the Article I, § 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose."

JUDICIAL DECISIONS

Boundary Dispute Cases

The "boundary dispute" case invoked by the administration are tacitly abandoned by Dean Pollak, presumably because, as he quotes Justice Story,

in the case of a contested boundary, there is no pretence to say that an ascertainment of the true boundary involves the question of cession. (Pollak, Appendix A, p. 3).

This was the ground upon which I dismissed those cases.

⁵ *Berger, Executive Privilege v. Congressional Inquiry*, 12 U.C.L.A. L. Rev. 1064, 1088-89 (1965).
⁶ *Life of John Marshall* 133-135 (1916).
⁷ *Hearings on the Panama Canal Treaty before the Senate Committee on Separation of Powers* (95th Cong. 1st Sess.) Part II, p. 20 (July 9, 1977).

Hence the Court concluded that "Congress did not intend that there should thenceforth be a general restriction upon the *alienation* by individual Indians of sections of land *reserved to them* respectively by a treaty with the United States. 175 U.S. at 12-13 (emphasis added). In short, only that portion of Taney's opinion that denied to individual Indians the right to alienate their property was deemed "not controlling," because superseded by an Act of Congress; the power of Indian tribes to "reserve" portions of ceded property to individual Indians was left untouched.

It is not necessary to go into the Court's discussion of the nature of the reserved title, e.g., was it legal or equitable, arising from the fact that Indian lands were held in common; there were no individual titles. Suffice it to set out the Court's quotation from *Doe v. Wilson*, 25 How 457, 463-464 (1859):

The Pottawatonic nation was the owner of the possessory right of the country ceded, and all the subjects of the nation were joint owners of it. The reserves took by the treaty, directly from the nation, the Indian title. 175 U.S. at 15.

The continued validity of Taney's statement that title "reserved" to individual Indians does not pass to the United States may be gathered from *Francis v. Francis*, 203 U.S. 233, 238 (1906), which cites *Jones v. Meehan* for the proposition that when a treaty makes "a reservation of a specified number of sections of land . . . the treaty itself converts the reserved land into individual property."

(2) Apparently Dean Pollak concurs with my reading of *Percheman v. United States*, 32 U.S. (7 Pet. O 51 (1833)). *Percheman* was cited by Attorney General Bell to show that "the Court held itself executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory."¹⁰ Those were property rights of individuals, not of the United States, and therefore irrelevant to Article IV. The treaty secured to private individuals grants that theretofore had been made to them by the Spanish King, being akin to "reserves" of the Indian treaties. Dean Pollak agrees that "Marshall held that the Treaty of Spain of 1819 had of its own force confirmed the titles of *pre-treaty owners* of Florida land ceded to the United States by the treaty." (Pollak 12n, emphasis added).

But Dean Pollak states that "*Percheman* held that the interpretation of the 1819 treaty approved in *Foster v. Neilson*, 27 U.S. (3 Pet. 253 (1829)) (a case relied on by Mr. Berger . . .) was in error." Id. cited *Foster* for the statement that "the ratification and confirmation which are promised must be by the act of the Legislature," i.e., Congress. *Percheman* held that no ratification was required because the Court discovered that the Spanish counterpart version of the treaty dispensed with all ratification, a fact not known to the *Foster* Court. 32 U.S. at 80. This does not repudiate the *Foster* holding that if ratification is required, it falls to Congress.

(3) There is no need to belabor Dean Pollak's mention of *Holden v. Joy*, 84 U.S. 211, 247 (1872), for Attorney General Bell granted that a best it was a "strong dictum," noting that "The Court conceded this

¹⁰ Statement before the Senate Foreign Relations Committee, September 26, 1877, p. 10.

But Dean Pollak's reference to Story was for the purpose of showing his awareness "that the treaty power includes authority to cede American Territory. . . ." Governor Edward Everett of Massachusetts had written Story with respect to the Northeastern boundary, that in his words presented "a question not of ceding an admitted portion of Maine, but of ascertaining the boundary between the British territory and ours." (Pollak, Appendix, p. 1) As we have seen, Story concurred in this view. Everett sought Story's advice regarding a resolution by the Massachusetts legislature "That no power delegated by the Constitution to the government of the United States authorizes them to cede to any foreign nation any territory lying within the limits of either of the States of the Union." Id., (emphasis added). Of course, Story rejected this drastic restriction, and added that Marshall "was unequivocally of opinion, that the treaty-making power did extend to cases of cession of territory, though he would not undertake to say that it could extend to all cases. . . ." Id. 3. Presumably what Marshall had in mind were the boundary disputes that called for settlement in his time. I would not deny that the President and Senate may enter into a treaty for the cession of territory; what is disputed is whether such a treaty may be "self-executing," without the subsequent consent of Congress under Article IV. Nor can Story's letter be read to repudiate the statement in his commentaries that "The power of Congress over the public territory is clearly exclusive and universal." *Indian Treaty Cases*.

(1) Dean Pollak follows the administration view of *Jones v. Meehan*, 175 U.S. 1, 10 (1899), quoting "that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress." (Pollak 10). But there the grant was made by the tribe, not the United States. The treaty had "set apart from the tract hereby ceded [by the tribe] a reservation of six hundred and forty acres" for an individual Indian, and the issue was what kind of title did he take. The Court, as I showed, quoted from an opinion of Attorney General Roger Taney:

these reservations are *excepted out of the grant made by the treaty, and did not therefore pass with it*; consequently the title remains as it was before the treaty, that is to say, lands reserved are still held under the original Indian title.

The Court held that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant of complete title in fee simple."¹¹ Dean Pollak states that "the Taney opinion . . . was discussed by the Court and rejected as not controlling." (Pollak 11n.). Only a not relevant portion of the opinion was held not controlling; the Taney clause immediately following the above quotation: "and therefore the Indian occupants *cannot convey them to individuals*, and no valid cession can be made of their interest but to the United States." (emphasis added).

Within a year of Taney's opinion, said the Court, Congress in a new Act "omitted the prohibition, contained in former statutes, of purchase or lease from 'any Indian'" and adopted an "altered form."

¹¹ Supra n. 3, 2 Story at p. 200.

¹² *Jones v. Meehan*, 175 U.S. 1, 12, 21 (emphasis added).

the question was immaterial in the case because Congress had actually implemented and ratified that particular treaty."¹⁴ Although Dean Pollak relies on dicta running in his favor, he rejects as dicta judicial statements that the Congressional power to dispose is "exclusive." (Pollak 14). In fact the latter are not dicta, but were essential to decision as I shall prove by Dean Pollak. He recognizes that *Sicou Tribe v. United States*, 316 U.S. 317 (1942), "properly held presidential power over federal lands to be subordinate to the Congressional power," consequently the Court's reference to Congress "exclusive" power was immediately relevant to decision, not dictum. So too, *Wacoan Central R.R. Co. v. Price*, 133 U.S. 496, 504 (1890), which stated that Article IV "implies an exclusion of all other authority over the property . . ." held, according to Dean Pollak, "state authority over federal lands to be subordinate to Congressional authority," again relevant to decision. Such holdings were earlier expressed by Justice Story as a general principle: "The power of Congress over the public territory is clearly exclusive and universal. . . ."¹⁵ True, that principle has yet to be applied to the treaty power (as is equally true of Dean Pollak's citations), but it derives not from dicta but from statements essential to decision, whereas *Holden v. Joy* concededly is pure dictum. For this reason, I consider the cases I cite as more worthy of credence than the dictum of *Holden v. Joy*.

(4) Repeatedly Dean Pollak dwells on the "classic exposition," the "classic formulation of the [treaty] power in *Groffoy v. Riggs*, 133 U.S. 258, 267 (1890)." (Pollak 4n., 12). That case had not the slightest bearing on the effect of Article IV for it had nothing to do with either the disposition or regulation of government property. Under a treaty providing for reciprocal rights of inheritance by citizens of the respective countries, it was held that a Frenchman could take land by descent in the District of Columbia. In Dean Pollak's view, "*Groffoy v. Riggs* is a particular illustration of the parity of treaties to regulate matters delegated to Congress. That case applied to rights of inheritance in the District of Columbia, notwithstanding that Article I, § 8(17) confers the power of 'exclusive legislation in all cases whatsoever' relating to the District." (Pollak 12n.). That still does not stretch to "regulation" by treaty of United States property and therefore in no wise diminishes Congress' power to dispose of it. Moreover, the treaty of 1853 conferred the right only in States "whose existing laws permit it" (the Court held the District a State for purposes of the treaty), and though the Act of March 7, 1887, forbade ownership of land in the District to aliens, it extended the disposition of lands "acquired by existing treaties" to them,¹⁶ which the Court held included realty "acquired by inheritance,"¹⁷ which the treaty did not pretend to override local law to the contrary, and Congress had consented to application of the treaty to inheritance by Frenchmen.

¹⁴ Id. 9.

¹⁵ *Supra* n. 5 at 206.

¹⁶ 133 U.S. at 267-271. The 1887 Act prohibited alien ownership of land in the District of Columbia. "Provided, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States shall have been acquired by the citizens of the United States, or by the citizens of any foreign State, prior to the date of the enactment of this Act." 24 Stat. 478. Like Dean Pollak, Justice Brandeis in *Holden v. Joy* stated that "local law" withheld the right. Mr. statement before the Senate Subcommittee on the Separation of Powers, November 13, 1977, p. 8.

(5) Finally, Dean Pollak summons *Missouri v. Holland*, 253 U.S. 416 (1920), for the proposition that the treaty makers can "empower Congress to enact legislation going beyond its specifically enumerated grants of power." (Pollak 18). That, with all due respect, is a startling proposition. For the Founders, in the words of George Nicholas in the Virginia Ratification Convention, held that no treaty can be "inconsistent with the delegated powers,"¹⁸ let alone confer additional, undelegated powers. Lee assumed that Convention that "When a question arises with respect to the legality of any power, exercised or assumed by Congress [the question will be] . . . is it enumerated in the Constitution? . . . It is otherwise arbitrary and unconstitutional."¹⁹ The reservation of undelegated powers to the people by the Tenth Amendment was not made subject to treaty; additional power requires a grant from the people by amendment. Madison, chief architect of the Constitution, said, "Had the power of making treaties, for example, been omitted, however necessary it might have been, the defect could only have been lamented, or supplied by an amendment to the Constitution."²⁰

For present purposes it suffices that *Missouri v. Holland* had nothing to do with the disposition or regulation of United States property. It arose out of a State challenge to a treaty with Great Britain for the protection of migratory birds which annually traversed parts of United States and Canada. Justice Holmes stated that "The whole question is whether it is forbidden by some invisible radiation from the general terms of the Tenth Amendment." Since, he held, "Wild birds are not in the possession of any one; and possession is the beginning of ownership,"²¹ the State could assert no property interest, and by the same reasoning, neither could the United States. *Missouri v. Holland* is therefore wholly irrelevant to the power by treaty to dispose of property of the United States.

THE LEGISLATIVE HISTORY

Here I ruefully confess error in one particular, though it does not vitiate my basic analysis. Dean Pollak correctly charges me with an erroneous inference drawn from the Morris-Sherman remarks, which were not in fact "subsequent" to the discussion of the treaty power." (Pollak 16-17). I myself had caught the error and confessed it before the House Committee on Merchant Marine on January 18, 1978, a copy of which statement is attached hereto. As I there explained (p. 11):

When [the Attorney General's statement before the Foreign Relations Committee] reached me late of a Saturday afternoon, as appears in my own Senate statement, I had only about two days to prepare my comments before having them typed and forwarded to the Senate Committee. Pressured of time conduces to oversights, and I was mistaken respecting a time sequence and in following the Attorney General's erroneous identification of a motion made by Williamson and

¹⁸ 2 J. Elliot, *Debates in the Several State Conventions on the Adoption of the Federal Constitution* 507 (2d ed. 1848).

¹⁹ Id. 186. For additional citations, see R. Berger, *Congress v. The Supreme Court* 15-16 (1962).

²⁰ *Annals of Congress* 1800-1801 (February 2, 1791).

²¹ 253 U.S. at 435-436.

Spaight with one he attributed to Sherman and Morris. Leisure for reflection and further research has since enabled me to correct such inaccuracies and to sharpen my analysis.

Such oversights are regrettable, even though induced by undue pressure of time and accentuated by lack of secretarial service and a corpus of research assistance such as the administration can devote to the task.

The Attorney General was guilty of a similar oversight in emphasizing a remark on the treaty power by George Mason during a debate on whether the Senate could share in originating revenue bills.¹⁰ For Mason spoke *before* the Article IV provision had been proposed and referred to the Committee on Detail, and of course before the resultant "disposition" provision was debated. 2 M. Farrand, *Records of the Federal Convention of 1787*, 297, 321, 466 (1911). Manifestly Mason's earlier remark hardly expressed the view that the treaty power overrode the as yet unborn "power to dispose."

There is no need to repeat the fresh analysis based on more thorough research that is set forth at pages 19-17 of my attached statement before the House Committee on Merchant Marine. Throughout, all that was under discussion was the performance of the Senate's own "advice and consent" function, whether it should turn on more or less than a two-thirds vote, without a hint of desire to curtail the House function under Article IV. It was one thing to insist that the Senate, in the performance of its own function, must act by a two thirds vote, and something else again to court the wrath of those who placed their faith in the more democratic House and were already displeased by the exclusion of the House from treaty making, by further reducing its role under Article IV. There is not, I repeat, the slightest hint in the history of an intention to do so. More is required to deprive the Article IV language of its clear meaning.

It remains to comment on Dean Pollak's rejection of my reminder that what the President seeks today with the "advice and consent" of the Senate he may next time seek to accomplish singlehandedly by executive agreement. (Pollak 19n.) Doubtless you are familiar with the rapid proliferation of executive agreements in recent years, a label pasted on a treaty to avoid the necessity of submission to the Senate.¹¹ When Senator J. William Fulbright was chairman of the Foreign Relations Committee, he complained that the State Department submitted treaties for "the most trivial matters" but declined to submit them for agreements respecting Spanish bases and the like. As he ironically told Secretary of State Rogers, "something as important as stationing troops and the payment of millions of dollars is proper for an executive agreement."¹²

Dean Pollak dismisses my concerns "about the aggrandizement of executive authority" as

not pertinent—indeed, they may properly be termed impertinent—when a President, acting in meticulous conformity with

the procedure specified in the Constitution, has asked the Senate to fulfill the partnership role in the making of treaties which the President expressly contemplates. (Pollak 19n)

Since fulfillment of that "partnership role" (for which I broke more than one lance) was many times frustrated by attaching the "executive agreement" label to treaties, I may be pardoned for being skeptical about the rake's reform. Permit me to close with the words of Alexander Hamilton, the great proponent of expansive Presidential power:

An agent cannot new model his own commission. A treaty cannot transfer the legislative power to the executive department.¹³

RAOUL BERGER.

¹⁰ "Letters of Cælius," 6 A. Hamilton, *Works* 166 (Lodge ed. 1804).

¹¹ *Supra* n. 12 at 8.
¹² *Supra* n. 12 at 8.
¹³ *Supra* n. 12 at 8. Kurland added, "Should the Constitution really be read to mean that by calling an agreement an executive agreement rather than a treaty, the obligation to secure Senate approval is dissipated?" Kurland, *The Impotence of Article II, 1960* *Duke U. L. J.* 8. There and other citations are set out in R. Berger, *Executive Privilege: A Constitutional Study* 142 (1974). A detailed discussion of executive agreements will be found at pp. 140-182.

APPENDIX III

STATEMENT BY RAOUL BENDER BEFORE THE SUBCOMMITTEE ON THE PANAMA CANAL OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES OF THE HOUSE OF REPRESENTATIVES

HEARINGS ON THE PANAMA CANAL TREATY, WASHINGTON, D.C., JANUARY 18, 1976

You have invited me to comment on the relation between the Article IV, §3(2) power of Congress to dispose of property of the United States and the treaty power. Although I am in favor of the Panama Canal Treaty, I share your solicitude for the preservation of constitutional boundaries and your concern lest the function committed to Congress be diminished. I have long held the conviction that all agents of the United States, be they Justices, Members of Congress, or the President, must respect those boundaries. No agent of the people may overleap the bounds of delegated power, or encroach on power granted to another. That is the essence of constitutional government and of our democratic system.

The effect of these hearings ranges beyond the Panama Treaty, for the Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. For it needs constantly to be remembered that a succession of Presidents have circumvented Senate participation in treaties of grayest import by resort to Executive Agreements. Acquiescence in such claims spells progressive attrition of Congressional powers. Your insistence on respect for constitutional boundaries will warn the Executive against encroachments on the powers of Congress; it will alert foreign nations to the fact that treaties for the cession of United States property must be subject to the consent of the House as well as the Senate.

The President, "by and with the advice and consent of the Senate" may make treaties. But Article IV, §3(2) provides that "the Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." How are the two provisions to be accommodated? For present purposes the question whether the United States has "sovereignty" over the Panama Canal need not detain us because, in my judgment, the grant of "use and occupation . . . in perpetuity" constitutes "property" no less than the familiar lease of realty for 99 years. Then there are the installations that cost billions of dollars. Disposition of these no less requires the consent of Congress than does that of territory. In 1942, the President, by Executive Agreement, promised to return certain installations to Panama subject, however,

to Congressional approval.¹ A similar provision is to be found in the Treaty of 1955.² These executive constructions are confirmed by established canons of interpretation.

First, there is the settled rule that where there is in an act a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act, although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates.³

In other words, "a broad statutory provision will not apply to a matter specifically dealt with in another part of the same act."⁴ Restated in terms of the present issue, the specific power of disposition, in which the House of Representatives must concur, governs the general provision authorizing the President and the Senate to make treaties. Second, there is the canon that express mention signifies implied exclusion, which the Supreme Court has employed again and again: "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode."⁵ The grant of the disposition power to Congress, in other words, excludes its exercise by Senate and President. The rule was invoked by the Founders; for example, Egbert Benson said in the First Congress, in which sat many Framers and Ratifiers, that "it cannot be rationally intended that all offices should be held during good behavior, because the Constitution has declared [only] one office to be held by this tenure."⁶ Under these rules it is of no moment that Article IV contains no express exclusion of "concurrent jurisdiction" under the treaty power. Having given Congress the power to dispose of public property, it follows that the President and Senate were impliedly excluded therefrom. Although this particular exclusion was not before the Court, it tacitly ratified the application of the foregoing rules of construction when it stated that Article IV "implies an exclusion of all other authority over the property which could interfere with this right"

Attorney-General Griffin B. Bell conceded in his statement before the Senate Foreign Relations Committee, September 25, 1977 (hereafter cited as A.G.), that

the specific powers granted to the House of Representatives and Congress in fiscal matters (Article I, section 7, clause 1 and Article I, section 9, clause 7, money bills and appropriations)

¹ Agreement of May 18, 1942, 59 Stat. (Pt. 2) 1289: "Where the authority of Congress . . . shall have been obtained therefrom." 61 U.S.T. 2273, 2278.
² *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³ *Quincy v. Pease*, 255 U.S. 204, 308 (1921). We should not be misled by the fact that the two provisions are in different parts of the same act, for the specific provision governs.
⁴ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
⁵ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
⁶ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
⁷ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
⁸ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
⁹ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹⁰ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹¹ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹² *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹³ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹⁴ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹⁵ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹⁶ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹⁷ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹⁸ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
¹⁹ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²⁰ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²¹ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²² *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²³ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²⁴ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²⁵ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²⁶ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²⁷ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²⁸ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
²⁹ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³⁰ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³¹ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³² *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³³ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³⁴ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³⁵ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³⁶ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³⁷ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
³⁸ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
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⁴⁰ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
⁴¹ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.
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¹⁰⁰ *United States v. Miller*, 250 Fed. 570, 374 (App. D.C. 1923), emphasis added.

tions power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the purse strings.

A.G. 4-5. Now sections 9 and 7 are couched in quite dissimilar terms. Section 9(7) is framed in terms of flat prohibition: "No money shall be withdrawn from the Treasury but in consequence of appropriations made by law..." Section 7(1), however, merely provides that "All bills for raising revenue shall originate in the House." Yet the Attorney General reads § 7 to preclude the President and Senate from "bypass[ing] the power of Congress and in particular of the House of Representatives over the purse strings." What is there that distinguishes "All bills... shall originate in the House" from "The Congress shall have power to dispose..."? The impartiality of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes." Nothing in the Article I, § 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose."

If the President may not by treaty "bypass" the power of the House to originate revenue-raising bills, or the power of Congress to tax, no more may he "bypass" its "power to dispose" of the property of the United States.

In their testimony before the Congress, Herbert J. Hansell, Legal Advisor, Department of State,¹⁶ and Ralph E. Erickson, Deputy Assistant Attorney General,¹⁷ cited a string of cases in support of "the power to dispose of public land... by treaty."¹⁸ For the most part they fell under boundary treaties or treaties with Indian tribes which, as will appear, turn on circumstances peculiar to themselves. Preliminarily consider Hansell's citation of *Missouri v. Holland*, 252 U.S. 416 (1920). It arose out of a State challenge to the treaty with Great Britain for the protection of migratory birds which annually traversed parts of the United States and Canada. Justice Holmes, addressing the argument that the treaty infringed powers reserved to the States by the Tenth Amendment, stated:

Wild birds are not in the possession of any one, and possession is the beginning of ownership. The whole foundation of the States' rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another State, and in a week a thousand miles away.¹⁹

Consequently, the State could assert no "title" in migratory birds. By the same token, the United States also could not lay claim to "ownership" of the birds, the *Missouri v. Holland* is therefore wholly irrelevant to the power by treaty to dispose of property belonging to the United States.

¹⁶ Hearings on the Panama Canal Treaty before the Senate Committee on Operations of Powers (80th Cong., 1st Sess.), Part II, p. 28 (July 28, 1971), hereafter cited as Hansell. ¹⁷ *Id.* at 10. ¹⁸ *Id.* at 11. ¹⁹ *Id.* at 12. ²⁰ *Id.* at 13. ²¹ *Id.* at 14. ²² *Id.* at 15. ²³ *Id.* at 16. ²⁴ *Id.* at 17. ²⁵ *Id.* at 18. ²⁶ *Id.* at 19. ²⁷ *Id.* at 20. ²⁸ *Id.* at 21. ²⁹ *Id.* at 22. ³⁰ *Id.* at 23. ³¹ *Id.* at 24. ³² *Id.* at 25. ³³ *Id.* at 26. ³⁴ *Id.* at 27. ³⁵ *Id.* at 28. ³⁶ *Id.* at 29. ³⁷ *Id.* at 30. ³⁸ *Id.* at 31. ³⁹ *Id.* at 32. ⁴⁰ *Id.* at 33. ⁴¹ *Id.* at 34. ⁴² *Id.* at 35. ⁴³ *Id.* at 36. ⁴⁴ *Id.* at 37. ⁴⁵ *Id.* at 38. ⁴⁶ *Id.* at 39. ⁴⁷ *Id.* at 40. ⁴⁸ *Id.* at 41. ⁴⁹ *Id.* at 42. ⁵⁰ *Id.* at 43. ⁵¹ *Id.* at 44. ⁵² *Id.* at 45. ⁵³ *Id.* at 46. ⁵⁴ *Id.* at 47. ⁵⁵ *Id.* at 48. ⁵⁶ *Id.* at 49. ⁵⁷ *Id.* at 50. ⁵⁸ *Id.* at 51. ⁵⁹ *Id.* at 52. ⁶⁰ *Id.* at 53. ⁶¹ *Id.* at 54. ⁶² *Id.* at 55. ⁶³ *Id.* at 56. ⁶⁴ *Id.* at 57. ⁶⁵ *Id.* at 58. ⁶⁶ *Id.* at 59. ⁶⁷ *Id.* at 60. ⁶⁸ *Id.* at 61. ⁶⁹ *Id.* at 62. ⁷⁰ *Id.* at 63. ⁷¹ *Id.* at 64. ⁷² *Id.* at 65. ⁷³ *Id.* at 66. ⁷⁴ *Id.* at 67. ⁷⁵ *Id.* at 68. ⁷⁶ *Id.* at 69. ⁷⁷ *Id.* at 70. ⁷⁸ *Id.* at 71. ⁷⁹ *Id.* at 72. ⁸⁰ *Id.* at 73. ⁸¹ *Id.* at 74. ⁸² *Id.* at 75. ⁸³ *Id.* at 76. ⁸⁴ *Id.* at 77. ⁸⁵ *Id.* at 78. ⁸⁶ *Id.* at 79. ⁸⁷ *Id.* at 80. ⁸⁸ *Id.* at 81. ⁸⁹ *Id.* at 82. ⁹⁰ *Id.* at 83. ⁹¹ *Id.* at 84. ⁹² *Id.* at 85. ⁹³ *Id.* at 86. ⁹⁴ *Id.* at 87. ⁹⁵ *Id.* at 88. ⁹⁶ *Id.* at 89. ⁹⁷ *Id.* at 90. ⁹⁸ *Id.* at 91. ⁹⁹ *Id.* at 92. ¹⁰⁰ *Id.* at 93. ¹⁰¹ *Id.* at 94. ¹⁰² *Id.* at 95. ¹⁰³ *Id.* at 96. ¹⁰⁴ *Id.* at 97. ¹⁰⁵ *Id.* at 98. ¹⁰⁶ *Id.* at 99. ¹⁰⁷ *Id.* at 100. ¹⁰⁸ *Id.* at 101. ¹⁰⁹ *Id.* at 102. ¹¹⁰ *Id.* at 103. ¹¹¹ *Id.* at 104. ¹¹² *Id.* at 105. ¹¹³ *Id.* at 106. ¹¹⁴ *Id.* at 107. ¹¹⁵ *Id.* at 108. ¹¹⁶ *Id.* at 109. ¹¹⁷ *Id.* at 110. ¹¹⁸ *Id.* at 111. ¹¹⁹ *Id.* at 112. ¹²⁰ *Id.* at 113. ¹²¹ *Id.* at 114. ¹²² *Id.* at 115. ¹²³ *Id.* at 116. ¹²⁴ *Id.* at 117. ¹²⁵ *Id.* at 118. ¹²⁶ *Id.* at 119. ¹²⁷ *Id.* at 120. ¹²⁸ *Id.* at 121. ¹²⁹ *Id.* at 122. ¹³⁰ *Id.* at 123. ¹³¹ *Id.* at 124. ¹³² *Id.* at 125. ¹³³ *Id.* at 126. ¹³⁴ *Id.* at 127. ¹³⁵ *Id.* at 128. ¹³⁶ *Id.* at 129. ¹³⁷ *Id.* at 130. ¹³⁸ *Id.* at 131. ¹³⁹ *Id.* at 132. ¹⁴⁰ *Id.* at 133. ¹⁴¹ *Id.* at 134. ¹⁴² *Id.* at 135. ¹⁴³ *Id.* at 136. ¹⁴⁴ *Id.* at 137. ¹⁴⁵ *Id.* at 138. ¹⁴⁶ *Id.* at 139. ¹⁴⁷ *Id.* at 140. ¹⁴⁸ *Id.* at 141. ¹⁴⁹ *Id.* at 142. ¹⁵⁰ *Id.* at 143. ¹⁵¹ *Id.* at 144. ¹⁵² *Id.* at 145. ¹⁵³ *Id.* at 146. ¹⁵⁴ *Id.* at 147. ¹⁵⁵ *Id.* at 148. ¹⁵⁶ *Id.* at 149. ¹⁵⁷ *Id.* at 150. ¹⁵⁸ *Id.* at 151. ¹⁵⁹ *Id.* at 152. ¹⁶⁰ *Id.* at 153. ¹⁶¹ *Id.* at 154. ¹⁶² *Id.* at 155. ¹⁶³ *Id.* at 156. ¹⁶⁴ *Id.* at 157. ¹⁶⁵ *Id.* at 158. ¹⁶⁶ *Id.* at 159. ¹⁶⁷ *Id.* at 160. ¹⁶⁸ *Id.* at 161. ¹⁶⁹ *Id.* at 162. ¹⁷⁰ *Id.* at 163. ¹⁷¹ *Id.* at 164. ¹⁷² *Id.* at 165. ¹⁷³ *Id.* at 166. ¹⁷⁴ *Id.* at 167. ¹⁷⁵ *Id.* at 168. ¹⁷⁶ *Id.* at 169. ¹⁷⁷ *Id.* at 170. ¹⁷⁸ *Id.* at 171. ¹⁷⁹ *Id.* at 172. ¹⁸⁰ *Id.* at 173. ¹⁸¹ *Id.* at 174. ¹⁸² *Id.* at 175. ¹⁸³ *Id.* 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²³⁹ *Id.* at 232. ²⁴⁰ *Id.* at 233. ²⁴¹ *Id.* at 234. ²⁴² *Id.* at 235. ²⁴³ *Id.* at 236. ²⁴⁴ *Id.* at 237. ²⁴⁵ *Id.* at 238. ²⁴⁶ *Id.* at 239. ²⁴⁷ *Id.* at 240. ²⁴⁸ *Id.* at 241. ²⁴⁹ *Id.* at 242. ²⁵⁰ *Id.* at 243. ²⁵¹ *Id.* at 244. ²⁵² *Id.* at 245. ²⁵³ *Id.* at 246. ²⁵⁴ *Id.* at 247. ²⁵⁵ *Id.* at 248. ²⁵⁶ *Id.* at 249. ²⁵⁷ *Id.* at 250. ²⁵⁸ *Id.* at 251. ²⁵⁹ *Id.* at 252. ²⁶⁰ *Id.* at 253. ²⁶¹ *Id.* at 254. ²⁶² *Id.* at 255. ²⁶³ *Id.* at 256. ²⁶⁴ *Id.* at 257. ²⁶⁵ *Id.* at 258. ²⁶⁶ *Id.* at 259. ²⁶⁷ *Id.* at 260. ²⁶⁸ *Id.* at 261. ²⁶⁹ *Id.* at 262. ²⁷⁰ *Id.* at 263. ²⁷¹ *Id.* at 264. ²⁷² *Id.* at 265. ²⁷³ *Id.* at 266. ²⁷⁴ *Id.* at 267. ²⁷⁵ *Id.* at 268. ²⁷⁶ *Id.* at 269. ²⁷⁷ *Id.* at 270. ²⁷⁸ *Id.* at 271. ²⁷⁹ *Id.* at 272. ²⁸⁰ *Id.* at 273. ²⁸¹ *Id.* at 274. ²⁸² *Id.* at 275. ²⁸³ *Id.* at 276. ²⁸⁴ *Id.* at 277. ²⁸⁵ *Id.* at 278. ²⁸⁶ *Id.* at 279. ²⁸⁷ *Id.* at 280. ²⁸⁸ *Id.* at 281. ²⁸⁹ *Id.* at 282. ²⁹⁰ *Id.* at 283. ²⁹¹ *Id.* at 284. ²⁹² *Id.* at 285. ²⁹³ *Id.* at 286. ²⁹⁴ *Id.* 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³⁵⁰ *Id.* at 343. ³⁵¹ *Id.* at 344. ³⁵² *Id.* at 345. ³⁵³ *Id.* at 346. ³⁵⁴ *Id.* at 347. ³⁵⁵ *Id.* at 348. ³⁵⁶ *Id.* at 349. ³⁵⁷ *Id.* at 350. ³⁵⁸ *Id.* at 351. ³⁵⁹ *Id.* at 352. ³⁶⁰ *Id.* at 353. ³⁶¹ *Id.* at 354. ³⁶² *Id.* at 355. ³⁶³ *Id.* at 356. ³⁶⁴ *Id.* at 357. ³⁶⁵ *Id.* at 358. ³⁶⁶ *Id.* at 359. ³⁶⁷ *Id.* at 360. ³⁶⁸ *Id.* at 361. ³⁶⁹ *Id.* at 362. ³⁷⁰ *Id.* at 363. ³⁷¹ *Id.* at 364. ³⁷² *Id.* at 365. ³⁷³ *Id.* at 366. ³⁷⁴ *Id.* at 367. ³⁷⁵ *Id.* at 368. ³⁷⁶ *Id.* at 369. ³⁷⁷ *Id.* at 370. ³⁷⁸ *Id.* at 371. ³⁷⁹ *Id.* at 372. ³⁸⁰ *Id.* at 373. ³⁸¹ *Id.* at 374. ³⁸² *Id.* at 375. ³⁸³ *Id.* at 376. ³⁸⁴ *Id.* at 377. ³⁸⁵ *Id.* at 378. ³⁸⁶ *Id.* at 379. ³⁸⁷ *Id.* at 380. ³⁸⁸ *Id.* at 381. ³⁸⁹ *Id.* at 382. ³⁹⁰ *Id.* at 383. ³⁹¹ *Id.* at 384. ³⁹² *Id.* at 385. ³⁹³ *Id.* at 386. ³⁹⁴ *Id.* at 387. ³⁹⁵ *Id.* at 388. ³⁹⁶ *Id.* at 389. ³⁹⁷ *Id.* at 390. ³⁹⁸ *Id.* at 391. ³⁹⁹ *Id.* at 392. ⁴⁰⁰ *Id.* at 393. ⁴⁰¹ *Id.* at 394. ⁴⁰² *Id.* at 395. ⁴⁰³ *Id.* at 396. ⁴⁰⁴ *Id.* at 397. ⁴⁰⁵ *Id.* at 398. ⁴⁰⁶ *Id.* at 399. ⁴⁰⁷ *Id.* at 400. ⁴⁰⁸ *Id.* at 401. ⁴⁰⁹ *Id.* at 402. ⁴¹⁰ *Id.* at 403. ⁴¹¹ *Id.* at 404. ⁴¹² *Id.* at 405. ⁴¹³ *Id.* at 406. ⁴¹⁴ *Id.* at 407. ⁴¹⁵ *Id.* at 408. ⁴¹⁶ *Id.* at 409. ⁴¹⁷ *Id.* at 410. ⁴¹⁸ *Id.* at 411. ⁴¹⁹ *Id.* at 412. ⁴²⁰ *Id.* at 413. ⁴²¹ *Id.* at 414. ⁴²² *Id.* at 415. ⁴²³ *Id.* at 416. ⁴²⁴ *Id.* at 417. ⁴²⁵ *Id.* at 418. ⁴²⁶ *Id.* at 419. ⁴²⁷ *Id.* at 420. ⁴²⁸ *Id.* at 421. ⁴²⁹ *Id.* at 422. ⁴³⁰ *Id.* at 423. ⁴³¹ *Id.* at 424. ⁴³² *Id.* at 425. ⁴³³ *Id.* at 426. ⁴³⁴ *Id.* at 427. ⁴³⁵ *Id.* at 428. ⁴³⁶ *Id.* at 429. ⁴³⁷ *Id.* at 430. ⁴³⁸ *Id.* at 431. ⁴³⁹ *Id.* at 432. ⁴⁴⁰ *Id.* at 433. ⁴⁴¹ *Id.* at 434. ⁴⁴² *Id.* at 435. ⁴⁴³ *Id.* at 436. ⁴⁴⁴ *Id.* at 437. ⁴⁴⁵ *Id.* at 438. ⁴⁴⁶ *Id.* at 439. ⁴⁴⁷ *Id.* at 440. ⁴⁴⁸ *Id.* at 441. ⁴⁴⁹ *Id.* at 442. ⁴⁵⁰ *Id.* at 443. ⁴⁵¹ *Id.* at 444. ⁴⁵² *Id.* at 445. ⁴⁵³ *Id.* at 446. ⁴⁵⁴ *Id.* at 447. ⁴⁵⁵ *Id.* at 448. ⁴⁵⁶ *Id.* at 449. ⁴⁵⁷ *Id.* at 450. ⁴⁵⁸ *Id.* at 451. ⁴⁵⁹ *Id.* at 452. ⁴⁶⁰ *Id.* at 453. ⁴⁶¹ *Id.* at 454. ⁴⁶² *Id.* at 455. ⁴⁶³ *Id.* at 456. ⁴⁶⁴ *Id.* at 457. ⁴⁶⁵ *Id.* at 458. ⁴⁶⁶ *Id.* at 459. ⁴⁶⁷ *Id.* at 460. ⁴⁶⁸ *Id.* at 461. ⁴⁶⁹ *Id.* at 462. ⁴⁷⁰ *Id.* at 463. ⁴⁷¹ *Id.* at 464. ⁴⁷² *Id.* at 465. ⁴⁷³ *Id.* at 466. ⁴⁷⁴ *Id.* at 467. ⁴⁷⁵ *Id.* at 468. ⁴⁷⁶ *Id.* at 469. ⁴⁷⁷ *Id.* at 470. ⁴⁷⁸ *Id.* at 471. ⁴⁷⁹ *Id.* at 472. ⁴⁸⁰ *Id.* at 473. ⁴⁸¹ *Id.* at 474. ⁴⁸² *Id.* at 475. ⁴⁸³ *Id.* at 476. ⁴⁸⁴ *Id.* at 477. ⁴⁸⁵ *Id.* at 478. ⁴⁸⁶ *Id.* at 479. ⁴⁸⁷ *Id.* at 480. ⁴⁸⁸ *Id.* at 481. ⁴⁸⁹ *Id.* at 482. ⁴⁹⁰ *Id.* at 483. ⁴⁹¹ *Id.* at 484. ⁴⁹² *Id.* at 485. ⁴⁹³ *Id.* at 486. ⁴⁹⁴ *Id.* at 487. ⁴⁹⁵ *Id.* at 488. ⁴⁹⁶ *Id.* at 489. ⁴⁹⁷ *Id.* at 490. ⁴⁹⁸ *Id.* at 491. ⁴⁹⁹ *Id.* at 492. ⁵⁰⁰ *Id.* at 493. ⁵⁰¹ *Id.* at 494. ⁵⁰² *Id.* at 495. ⁵⁰³ *Id.* at 496. ⁵⁰⁴ *Id.* at 497. ⁵⁰⁵ *Id.* at 498. ⁵⁰⁶ *Id.* at 499. ⁵⁰⁷ *Id.* at 500. ⁵⁰⁸ *Id.* at 501. ⁵⁰⁹ *Id.* at 502. ⁵¹⁰ *Id.* at 503. ⁵¹¹ *Id.* at 504. ⁵¹² *Id.* at 505. ⁵¹³ *Id.* at 506. ⁵¹⁴ *Id.* at 507. ⁵¹⁵ *Id.* at 508. ⁵¹⁶ *Id.* 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such dicta, it is well to bear in mind Chief Justice Taney's statement that the Court's

opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should thereafter depend altogether on the force of the reasoning by which it is supported.¹¹

As to other treaties, Hansell tells us, "the precedents supporting the power to dispose of property by treaty alone can be found in the boundary treaties with neighboring powers, especially in the treaties between the United States and Great Britain in 1842 and 1846 for the location of our northeast and northwest boundaries. . . ." "Settlements of boundary disputes are not really cessions of United States property. The Oregon boundary dispute proceeded from an extravagant claim: 'Fifty-Four Forty or Fight'; the British, on the other hand, claimed land down to the forty-second parallel. Only when the dispute was settled by negotiation at 49 degrees could either party confidently assert that it had title. As a respected commentator, Samuel Crandall, observed, 'a treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition.'¹²

Among other examples of alleged treaty transfers of property, Hansell instances the return to Japan of the Ryukyu Islands.¹³ By Article III of the 1851 Treaty of Peace with Japan, the United States received the right to exercise "all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of those islands. . . ." While Japan renounced in Article II "all right, title and claim" to various territories, it made no similar renunciation with respect to the Ryukyus.¹⁴ Quoting the Legal Advisor of the State Department, that "sovereignty over the Ryukyu Islands . . . remains in Japan," a District Court stated that sovereignty over a territory may be transferred by an agreement of cession,¹⁵ but it concluded that there had been no cession.¹⁶ The Fourth Circuit Court of Appeals quoted a statement by Ambassador John Foster Dulles, a delegate to the Japanese Peace Conference, that the aim was "to permit Japan to retain residual sovereignty," and it held that the treaty did not make "the island a part of the United States, and it remains a foreign country for purposes of the Federal Tort Claims Act."¹⁷

In sum, Messrs. Hansell and Erickson have failed to make out a case for the President's "concurrent jurisdiction" with Congress in the disposition of United States property.

It remains to consider the arguments advanced by Attorney General Bell before the Senate Foreign Relations Committee. He cited *United States v. Perleman*, 32 U.S. (7 Pet.) 51, 88-89 (1833) to prove that "the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly

acquired territory." A.G. 10. At the cited page it appears that Article 8 of the treaty provided,

all the grants of land made before the 24th of January, 1818, by his Catholic Majesty . . . in said territory ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands. . . .

This article, Chief Justice Marshall held,

must be intended to stipulate for that security of private property which the laws and usages of nations would, without express stipulation, have conferred.

In other words, the treaty provided that prior Spanish grants to private persons should be ratified and confirmed, a provision far removed from presidential "regulation" of public territory. Such regulation is confined to Congress, as *Poston v. Neason*, 27 U.S. (2 Pet.) 253, 314-315 (1829) held with respect to the self-same provision, "the ratification and confirmation which are promised must be by the Act of the Legislature," i.e., Congress.

REMARKS IN THE LEGISLATIVE HISTORY OF THE TREATY POWER

Before discussing the legislative history adduced by the Attorney General, permit me a few words of explanation and apology. When his statement before the Senate Committee reached me late of a Saturday afternoon, as appears on my own Senate statement, I had only about two days to prepare my comments before having them typed and forwarded to the Senate Committee. Pressure of time conduces to oversights, and I was mistaken respecting a time sequence, and in following the Attorney General's erroneous identification of a motion made by Williamson and Spaight with one he attributed to Sherman and Morris. Leisure for reflection and further research has since enabled me to correct such inaccuracies and to sharpen my analysis. And it has strengthened my conviction that the treaty power was not designed to diminish the Article IV power of Congress.

For the most part the Attorney General's citations have reference to settlement of boundary disputes by treaties of peace which, as we have seen, do not involve cessions. He begins with a remark of George Mason in the Constitutional Convention, an *in terrorem* statement during a debate on whether the Senate could share in originating revenue-raising bills. Speaking for exclusion of the Senate, Mason stated that the Senate "could already sell the whole country by means of treaties," and then toned down this extravagant overstatement to that quoted by the Attorney General: "The Senate by means of a treaty might alienate territory, etc., without legislative sanction." A.G. 6, 2 Farrand 297. Mason spoke before the Article IV progenitor was even proposed and referred to the Committee on Detail, 2 Farrand 321, 324, and of course before the resultant "disposition" provision was debated, id. 406. Manifestly his earlier remark hardly expressed the view that the treaty power overrode the as yet unborn "power to dispose."

The Attorney General's other citations will be considered seriatim. (1) The remarks of Gerry, and of Williamson and Spaight, cited A.G. 8, were made after Madison's motion to "except treaties of peace"

¹¹ The Passenger Cases, 48 U.S. (7 How.) 283, 470 (1849), dissenting opinion.

¹² Hansell 6.

¹³ R. Crandall, "Treaties, Their Making and Enforcement" at p. 326 (3d ed. 1916).

¹⁴ *United States v. Perleman*, 32 U.S. (7 Pet.) 51, 88-89 (1833).

¹⁵ *United States v. Perleman*, 32 U.S. (7 Pet.) 51, 88-89 (1833).

¹⁶ *United States v. Perleman*, 32 U.S. (7 Pet.) 51, 88-89 (1833).

¹⁷ *United States v. Perleman*, 32 U.S. (7 Pet.) 51, 88-89 (1833).

from the two-thirds vote requirement had been agreed to by unanimous consent. 2 Farrand 540. Gerry protested

that in treaties of peace a greater rather than a lesser proportion of votes was necessary than in other treaties. In treaties of peace the dearest interests will be at stake, as the fisheries, territory, etc. In treaties of peace also there is more danger to the extremities of the Continent, of being sacrificed, than on any other occasions.

Id. 541. The "extremities" patently refer to boundary disputes. Notwithstanding, Madison's "exception" was again approved by a vote of 8 to 3. Now Williamson and Spaight took up the opposition and "moved that no Treaty of Peace affecting territorial rights should be made without the concurrence of two thirds of the [members of the Senate present.]" id. 543. In short, they sought to exclude treaties of peace "affecting territorial rights" from the Madison "exception." A note added to Madison's records recites that "The subject was then debated, but the motion does not appear to have been made." 4 Farrand 88. On the following day, Sherman and Morris spoke "agst. leaving the rights, established by the Treaty of Peace, to the Senate, & moved to annex a proviso that no such rights shd be ceded without the sanction of the Legislature," id. 548, a clear reference to boundary disputes. The matter was resolved by striking Madison's exception. 2 Farrand 548-549. Throughout all that was under discussion was the performance of the Senate's own "advice and consent" function, without a hint of desire to curtail the House function under Article IV. The Convention's overnight reversal of its approval of Madison's motion testifies how fluid were its views in this area, arguing against giving the remarks of Gerry et al preponderant weight.

(2) Of the same order is a letter by Hugh Williamson, a delegate to the Convention, written to Madison some nine months after its close, to recall to him

a Proviso in the new System which was inserted for the express purpose of preventing a majority of the Senate . . . from giving up the Mississippi. It is provided that two-thirds of the members present in the Senate shall be required in making treaties.

A.G.7-8; 3 Farrand 306-307. As the Attorney General's fuller quotation shows, Williamson feared that General Wilkinson might be led to give up "the Navigation of the Mississippi," and recalled that "the Navigation of the Mississippi . . . was not to be risked in the Hands of a meer Majority." A *cession* of territory was not therefore involved, but rather claims to rights of navigation. At best, the Mississippi issue was a boundary claim finally settled by the Louisiana Purchase. Nor was a boundary claim the sole motivation for insistence on a two-thirds requirement. George Mason explained in the Virginia Ratification Convention that because of their concern about the Newfoundland fisheries, "The eastern states therefore agreed a length, that treaties should

require the consent of two-thirds of the members present in the Senate." 3 Farrand 335. Such diverse motives counsel against reading the several "two-thirds" remarks as evidencing an intent to diminish the role of the House under Article IV. It was one thing to insist that the Senate, in the performance of its own function, must act by a two-thirds vote, and something else again to court the wrath of the democratically minded, who placed their faith in the House and were already disgruntled by the exclusion of the House from the negotiation and making of treaties, by further reducing the role of the House under Article IV.

(3) The Attorney General also cites an amendment proposed by the Virginia Convention as exhibiting the awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States:

no commercial treaty shall be ratified without the concurrence of the members of the Senate (not merely of those present); and no treaty ceding, contracting . . . the territorial rights or claims of the United States . . . shall be made, but in cases of extreme necessity; nor shall any treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively. (Emphasis added.)

A.G. 7; 3 Elliot, Debates on the Federal Constitution 600. From this attempt to bring the House into treaty ratification the Attorney General would infer that it could be excluded from the Article IV "disposition" of territory. It is simpler to read it as a renewal of the struggle for House participation in treaty-making. In any event, he proves too much. The Virginia Convention likewise recommended "That the legislative, executive and judicial powers should be separate and distinct," that the right to challenge jurors should not be restrained. 3 Elliot 657-658.¹⁰ Do these proposals prove that the separation of powers therefore is not a fundamental principle of the Constitution, or that it does not guarantee the rights to challenge jurors? When *implicit* rights are not thus negated, how much stronger is the case for giving effect to the *express* Article IV grant to Congress despite such proposals. Like the earlier remarks, the Virginia amendment testifies to the importance the Founders attached to the disposition of territory—no cession except "in cases of extreme necessity"—and suggests, as in the proposal to spell out the right of challenge, that the Virginians were merely seeking to make assurance doubly sure.

Our guide is furnished by *Pierston v. Ray*, 388 U.S. 547, 554-555 (1967). There the Court declared with respect to the common law immunity of judges from suit for acts performed in their official capacity.

We do not believe that this settled principle was abolished by § 1983, which makes liable "every person" who under

¹⁰ "That in criminal prosecutions, no man shall be restrained in the exercise of the usual and accustomed right of challenging or excepting to the jury." 3 Elliot 657-658. The Virginia Convention had been assured by John Marshall that the proposed amendment would not encompass all its attributes, such as the right to challenge jurors. 3 Elliot 559, 546, 547, 486, 578.

¹¹ The Attorney General mistakenly attributes a more complete version of this motion to Sherman and Morris, 4.0 6-7, citing 4 Farrand 88. That part, merely, was an amendment that should be made in 2 Farrand 548, which contains only the motion of Williamson and Spaight. Emphasis added.

color of law deprives another of his civil rights . . . we presume that Congress would have specifically so provided had it wished to abolish the doctrine.

Thus the all-inclusive "every person" was held not to curtail an existing common law immunity in the absence of a specific provision. The more equivocal treaty-making power demands an even more exacting standard. Before it be concluded that it in any way diminishes the explicit grant to Congress of "power to dispose" of territory and property, a clearly expressed intention to do so should be required. That requirement is not satisfied by the random remarks collected by the Attorney General.

In my judgment, the Panama Treaty should contain a provision making it subject to approval of the Congress.

RESPONSES OF SECRETARY OF STATE SHULTZ TO QUESTIONS
ASKED BY SENATOR HELMS

1. The Administration claims that this treaty reduces nuclear weapons. In fact, the Secretary said here on January 25, that the treaty, and I quote, "reduces nuclear weapons rather than setting guidelines for their future growth." But we have learned in the hearings that nuclear weapons are not reduced at all; only the delivery vehicles are to be eliminated. The nuclear warheads, that is the most expensive and the most technologically difficult part of the device, can and will be transferred by the Soviets to upgraded delivery vehicles. This should really be called the Soviet Nuclear Force Modernization Treaty.

By destroying the means of delivering INF missile nuclear warhead devices, the Treaty will remove the threat posed by them. For a number of reasons, the U.S. determined that it would not be in our interest to eliminate the nuclear warhead devices themselves. Verifying the elimination of nuclear warhead devices raised formidable technical challenges and difficult security issues. Intrusive verification measures could disclose sensitive nuclear weapons information to the Soviet Union. Finally, the nuclear warhead devices contain costly and scarce resources which it would be imprudent to destroy.

Although the Treaty does not prohibit the United States or the Soviet Union from using nuclear warhead devices for other missiles, a nuclear warhead device, however, cannot simply be "transferred" onto another missile without significant modification of the warhead or the missile.

2. The Secretary told us on January 25 that the treaty "requires the U.S. and the Soviet Union to eliminate their intermediate range missiles within three years. But we found out that the definition of "intermediate range missile" is so narrowly drawn that the treaty does not include all missiles with an intermediate-range capability. In fact, the term "intermediate range missile" is almost meaningless, since any intermediate range missile that also has a capacity in excess of 5500 kilometers is permitted to remain.

The INF Treaty requires the Soviet Union to eliminate all of its existing ground-launched INF missiles and not to possess any such missiles three years after entry into force of the agreement. It further bans the production of such INF missiles. Far from being narrow in scope, the Treaty requires the elimination of an entire class of U.S. and Soviet missile systems.

Of course, the Treaty does not affect strategic systems. We never intended it to cover these systems. We never claimed it did. While strategic systems of both the Soviet Union and the United States can perform INF missions, this in no way undermines the clear political and military benefits for the U.S. The Soviet Union deployed its INF missiles for political as well as military purposes, i.e. for political intimidation and coercion during a crisis or conflict. This is based on the particular threat that the SS-20, because of its range, accuracy, mobility and triple warhead capability poses to NATO. The Soviet Union will be required to destroy these missiles under the INF Treaty, resulting in fewer nuclear missiles arrayed against NATO than there were in 1979, and fewer

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than there would be in the absence of an INF Treaty. Soviet strategic weapons can reach targets in both the U.S. and NATO Europe and thus do not have the political decoupling aspects of Soviet INF missiles and cannot substitute for them in this key manner.

3. The Secretary told us in his first appearance that "NATO would retain a variety of systems that could perform the critical deterrence missions." But expert after expert testified that the so-called nuclear weapons that remained were, by and large, battlefield weapons that would explode on allied territory instead of in Soviet territory, as the Pershing II would do.

NATO will retain a broad spectrum of theater and strategic nuclear capabilities, able to hold at risk targets throughout the Warsaw Pact. These include nuclear weapons on a variety of U.S. and Allied delivery systems, and U.S. strategic systems assigned to SACEUR. UK and French forces are also present and provide an additional nuclear response from Western Europe to the Soviet Union. Moreover, although NATO is giving up a significant military capability, the Soviets are giving up a greater capability involving deployed missiles and launchers capable of carrying about four times more warheads than NATO. With the elimination of the SS-20 and SS-4 systems, Soviet ability to strike deep, time-urgent targets in NATO will be reduced. Coupled with the reduced threat against NATO seaports, airfields and U.S. POMCUS sites from nuclear/conventional/chemical-capable Soviet shorter-range missile systems, the reduced Soviet INF threat will increase the sustainability and survivability of our forces.

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4. The Secretary told us that the Pershing IIs and the SS-20s "were not considered strategic." It may be true that the Administration does not consider them strategic. But there is no evidence that the Soviet Union does not consider them strategic. In fact, the Soviet strategy is tri-partite, consisting not only of offensive and defensive systems, but also ground and air operations in Europe. The subjection of Europe, either by threat or by conventional forces, is now and always has been a prime goal of Soviet strategy. The removal of the SS-20s, if they really are to be removed, does not remove the Soviet capability to threaten Europe either through political pressure or nuclear intimidation. Our removal on the other hand, of the Pershing IIs removes the only credible deterrent against this third arm of Soviet strategy.

The INF Treaty eliminates an entire class of U.S.-Soviet nuclear missiles, requires asymmetric Soviet reductions to equality, and includes precedent-setting verification provisions. However, it is only a first step toward the Administration's goal of enhancing U.S. and Allied security and strengthening strategic stability. We also cannot lose sight of the political achievements of the INF Treaty. This Treaty represents a victory for Allied unity and resolve in the face of Soviet pressure. It will eradicate the missiles the Soviets attempted to use to drive wedges in the NATO Alliance and to heighten fears about the possibility that the U.S. could be decoupled from the defense of Europe. These Soviet attempts were based on the fact that Soviet INF missiles could reach our European and Asian allies but could not threaten U.S. territory directly. The INF Treaty thus will eliminate these missile systems and Soviet attempts to use them to disrupt our alliances. The Treaty leaves intact, however, NATO's

long-standing strategy of flexible response and the conventional, theater nuclear, and strategic assets to implement it.

As a result of the Treaty, the Soviets will lose considerable capability in both the European and Asian theaters to strike our Allies. In addition, in Europe, they no longer will have the capacity to strike with these weapons many of our pre-positioned major equipment (POMCUS) sites, and debarkation points, both ports and airfields.

While the Soviets do have the capability to retarget a portion of their ICBM force to strike targets in Europe and Asia formerly covered by their INF missiles, they would be required to do so by reducing their coverage proportionately of targets formerly covered by those ICBMs. In addition, the Soviets will not gain the same potential political leverage on our Allies or create the same sense of decoupling as they did with their INF force.

In East Asia, elimination of the SS-20 prevents the Soviets from holding at risk over 500 targets in that region. When coupled with the elimination of 300 Soviet shorter-range INF missiles in the Asian-Pacific theater, the elimination of all Soviet ground-based INF missiles represents a significant reduction in the threat to our Asian friends and allies.

Additionally, we have been long concerned about Soviet capabilities to attack NATO Europe with chemical weapons. We still are, but at least two of the significant shorter-range delivery systems for chemical and conventional weapons (SS-12s and SS-23s) will be removed from the Soviet order of battle as a result of this Treaty. Our field commanders have always considered the SS-12 a particularly worrisome threat to ports of entry and airfields. In essence, the Treaty will assist in facilitating our reinforcement of Europe.

The INF Treaty does not solve all our security problems. It was never meant to. But it does eliminate a class of weapons which the Soviets saw fit to deploy for over 30 years. Clearly, the Soviets saw utility in these systems, or they would not have deployed and regularly modernized them over this period.

5. Then we were told that the obligation to remove the intermediate missiles was global, and that we would have on-site inspection of the declared sites. But the United States knows full well that missiles prohibited in this treaty were in fact deployed in Cuba. This treaty fails to provide the on-site inspection that the Soviets promised in 1962. While the White House says that it has no evidence that missiles are in Cuba, it is also true, as Admiral Crowe testified, that we have no capability to detect missiles unloaded at night and hidden in Cuban caves.

On 15 February the Assistant to the President for Press Relations noted the following:

"The SS-4 and SS-5 missile sites established in Cuba between late August and mid-October 1962 were confirmed as having been destroyed in that year. We also are confident that the missiles were removed from Cuba at that time. We have had extensive intelligence collection directed at Cuba since 1962 and have no evidence that SS-4, SS-5 or other strategic missiles have been deployed there"

As a supplement to his testimony of 4 February before the SFRC, Admiral Crowe noted that while "it is vitally important to continue strict monitoring of Soviet activity in Cuba ... these concerns do not deal with the SS-4 or SS-5 missile. We have no evidence that these or any other missile systems subject to the INF Treaty have been present in Cuba since the 1962 missile crisis".

6. Then we were told on January 25 that "this agreement has the most stringent and comprehensive scheme of verification in the history of arms control." But we can have on-site inspection only at those sites where the Soviets permit us to look--which of course is exactly the places where the Soviets would not keep a covert force. The scheme of verification may be more stringent when it is compared to nothing, which is what we had before, but it is as full of holes as Swiss cheese.

There is no such thing as absolute or 100% verification. That would essentially be a case of proving a negative which is difficult if not impossible. However, one can make judgments about the disincentives to Soviet cheating and about U.S. capabilities to detect violations which pose a threat to U.S. and Allied security in order to state that the INF Treaty meets the criteria of effective verification. It is our judgment that the Treaty contains measures for effective verification of compliance. These include NTM, data exchange, several kinds of on-site inspection, measures to enhance NTM, and the bans on production and flight testing, which over time will reduce the viability and effectiveness of any covert force.

Thus the structure of the verification regime has deliberate redundancies. Such double-checking is what provides its power. One layer of the regime builds on another to create a whole that is greater than the sum of its parts. Consequently it is clear that in the INF Treaty, we achieved a much more extensive verification regime than sought in past arms control agreements and one that meets the more stringent standards which this Administration has applied to arms control.

Because a verification regime is reciprocal, we had to weigh verification benefits against US and Allied security concerns. In the context of the Soviet acceptance of our "double zero" proposal, we concluded that "anytime, anywhere" inspections were not essential given the extensive and unprecedented nature of our verification procedures as a whole. We believe the right balance was struck. Moreover, even with such inspections, you could not have "absolute" verification.

There are practical problems associated with "anytime, anywhere" inspections. In our own country, we faced the problems of permitting possible Soviet inspections of sensitive U.S. facilities. In short, we did not feel that "anytime, anywhere" inspections in INF offered sufficient offsetting advantages given the potential problems and the already extensive verification provisions.

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7. Finally, the close design relationship between the SS-20, prohibited by the treaty, and the SS-25, which is not covered by the treaty, makes it perfectly feasible to keep SS-20s in SS-25 containers, test them on SS-25 launchers, and train their troops on SS-25 sites, which we can't inspect, and which our national technical means can't detect.

This claim overlooks the fact that it is not feasible to launch SS-20's from SS-25 launch canisters without undertaking significant modifications in either the SS-20 missile or the SS-25 canister. Moreover, if the Soviets undertook such modifications, they would have little confidence in the reliability of the systems without flight-testing the missile. Such flight-testing is prohibited by the INF Treaty, and we are confident that it would be detected by the U.S. Thus, the Soviets would have very little confidence that they could deploy militarily significant SS-20 missiles in SS-25 launch canisters without being detected.

We have the right to on-site inspection of SS-20 bases that are converted to SS-25 bases where we will be able to inspect any object as large as the smallest stage of any missile covered by this Treaty. Our inspectors will use measuring devices and radiation detection devices. With radiation detection devices, we can distinguish the SS-20 from the SS-25. Also we have the right to conduct continuous portal monitoring for up to thirteen years of the SS-25 final assembly facility at Votkinsk or any

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other facility where missiles are assembled using a stage which is outwardly similar to but not interchangeable with the first stage of the SS-20. We will have the right to weigh and measure all vehicles leaving the facility. If the vehicle is large enough and heavy enough to contain a Soviet Treaty-limited GLBM, we will have the right to inspect the interior of that vehicle. In addition, eight times a year we will have the right to demand that the Soviets open an SS-25 canister so we can see the interior of the canister to determine that it does not contain an SS-20.

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8. That is what makes the range of estimates of SS-20s produced so crucial to our understanding of the treaty. The Administration has maintained that the Soviet declared number of 650 SS-20s is "within the range of estimates." And, based on press reports, it may be within that so-called range.

The key question, however, is whether the rock bottom estimates provided by the State Department and the CIA, both known for underestimating Soviet military capabilities in the past should be given any credence whatsoever. The fact is that the majority of our intelligence agencies, excluding the CIA and the Department of State's INR, are confident that the number of SS-20s is much higher -- 950, or even 1250, as Admiral Crowe testified before the Armed Services Committee. The view that there are probably 300 to 600 more SS-20s than have been declared is too wide a range of difference to be dismissed as "within the range of estimates." The catastrophe of being wrong is too great a consequence to face.

We have made it clear that there are some differences within the U.S. Intelligence Community over estimated numbers of Soviet systems. It is not surprising that there are differences of opinion; they reflect independent analyses which add to the strength of our monitoring process. The Soviet numbers for deployed and non-deployed forces are for the most part near the estimates of our Intelligence Community, allowing for the range of our uncertainties.

There are some differences in agency views on the number of non-deployed SS-20s. Estimates for non-deployed systems are, of course, inherently less certain. They vary by agency, reflecting the independent analyses mentioned above. There are three agency views. Two are close to the Soviet-declared number. One is not.

The Treaty is designed to deal with possibilities such as the Soviets having more non-deployed SS-20's than we assess. Our National Technical Means can verify Soviet compliance with the Treaty's ban on INF flight testing, as already noted, as well as with the Treaty's ban on INF infrastructure and activity. Testing, training and infrastructure are essential to a militarily effective force. Thus unless the Soviets were willing to risk detection, the military effectiveness of concealed SS-20s would degrade over time.

RESPONSES OF PAUL H. NITZE TO QUESTIONS
ASKED BY SENATOR BIDEN

1. Suspect Site Inspections in START. The joint statement issued at last month's summit meeting outlining the terms of a potential START treaty includes a requirement for "short-notice inspections at locations where either side considers covert deployment, production, storage or repair of strategic offensive arms could be occurring."

-- Could you please explain why broad challenge inspections of any suspect sites should be included in a START agreement, but not the INF agreement? Wouldn't we have problems giving the Soviets access to our deployed strategic forces? During the INF negotiations, the U.S. reportedly had difficulty establishing a "right of refusal". How would a right of refusal work?

A. Broader challenge inspections were included in the U.S. INF approach when it appeared that residual forces would remain on both sides. Once we secured Soviet agreement to global elimination, however, we tailored the verification regime to that outcome. Some verification provisions which had been considered for the INF Treaty, such as broad challenge inspections, were no longer considered to be necessary. However, as is the case with INF, access to declared deployed forces, as well as to declared non-deployed systems, will certainly be part of the START inspection regime.

Because the START agreement we are developing provides for retention of approximately half the strategic nuclear offensive arsenals of both sides, the President and the General Secretary agreed at the December 1987 Washington Summit that additional

provisions, building upon those in the INF Treaty, will, at a minimum, include short-notice on-site inspection of declared locations during the reduction period, locations where systems covered by the START Treaty remain after the period of reductions, and formerly declared facilities. They also agreed on the right to implement, in accordance with agreed-upon procedures, short-notice inspections at locations where either side considers covert deployment, production, storage or repair of strategic offensive arms could be occurring.

We are thoroughly exploring proposals for such broad inspection rights at suspect sites. We have not yet arrived at a USG position on how such an inspection provision and any associated "right of refusal" would operate.

2. Nuclear vs. Conventionally Armed GLCMs. In September 1987, the U.S. agreed that the treaty's prohibitions would apply to missiles with conventional warheads as well as those with nuclear warheads.

-- What were the reasons for this decision?

-- What sort of verification regime would be required to determine the armament of cruise missiles?

-- Given the difficulty of verifying the type of warhead on cruise missiles, will the principle of limiting both conventionally-armed and nuclear-armed cruise missiles be applied to the START negotiations?

-- Why does the joint statement describing the emerging START Treaty specifically refer to limitations on nuclear sea-launched cruise missiles and nuclear air-launched cruise missiles?

A. The USG decision to ban conventionally-armed GLCMs took into account a number of considerations. It is important to remember what the issue was not about. It was not about whether to permit planned U.S. deployments of conventionally-armed GLCMs nor was it about whether to withdraw from Europe previously deployed systems. Rather, the decision to be made was whether to protect the option for deploying conventionally-armed GLCMs. At the time of the decision, the U.S. and NATO did not -- and do not today -- have any specific plans or military requirements for conventionally-armed GLCMs within the range band covered in the INF Treaty.

Moreover, the USG has fully protected its right to deploy conventional air- and sea-launched cruise missiles of any range. We have taken this position because we have a clear need for such conventionally-armed air- and

sea-launched cruise missiles, unlike the case for conventionally-armed GLCMs.

Allowing Soviet deployment of conventional GLCMs could have exacerbated the existing conventional imbalance (and added to the Soviet ability to deliver chemical weapons), especially given the possibility that the Soviets would deploy these systems in far greater numbers than NATO.

In addition to these reasons, we also had to consider the verification difficulties inherent in distinguishing between nuclear- and conventionally-armed GLCMs. The USG has been unable to develop -- and the Soviet Union has not put forth -- a regime to verify effectively the differences between the two types. Thus, by permitting Soviet conventionally-armed GLCMs, we would have to assume for military planning purposes that the entire force was capable of delivering nuclear weapons.

By requiring the elimination of INF GLCMs, launchers, support structures and equipment, we make covert Soviet deployment of INF range GLCMs difficult and costly. Without flight-testing, crew training and exercising of equipment, the operational capability of any covertly stored GLCMs would be seriously degraded over time, especially as they never operationally deployed their GLCM. Conversely, the Soviet

ability to maintain an operational nuclear GLCM capability under the guise of a permitted conventionally-armed GLCM program would be high.

Our position in START is that conventionally-armed air-launched cruise missiles will not be limited and that the two sides are committed to establish ceilings only on longer-range nuclear-armed SLCMs, as well as seeking mutually acceptable and effective methods of verification. To date, the U.S. has not identified an effective verification approach for such SLCMs.

3. Verification Precedents. What aspects of the INF inspection regime do you think would be particularly applicable to a strategic arms control agreement? Do you think the type of production controls established in the INF Treaty would be a useful means of verifying limitations on mobile missiles and cruise missiles in a future START Treaty?

A. The INF verification regime provides a very solid foundation on which to build a verification regime for START, and we are well under way in doing so. Many aspects of the INF inspection provisions will be applicable to a START agreement; in the START context we are applying the principles of the INF inspection provisions and expanding on them as well as adding other principles in light of the additional requirements that result from the need to verify residual force levels rather than global elimination.

The INF Treaty bans production of INF systems. Moreover, it provides for continuous on-site monitoring of one facility in the Soviet Union which assembles an ICBM that has a stage which is outwardly similar to the first stage of the banned SS-20. Because the START Treaty will permit production of strategic systems and the maintenance of a large deployed strategic force, the START Treaty will have to provide for continuous on-site monitoring of critical facilities to confirm their output. We are still considering our position on how to verify limits on mobile missiles. With respect to nuclear-armed, long-range cruise missiles, we propose that the limitation

effectively be upon the number of heavy bombers of a type equipped to carry such cruise missiles. Therefore, we are not currently seeking production limits upon such cruise missiles per se.

4. Standard for Verification. The question of what is an acceptable level of verification has been at the heart of the debate over arms control for many years. During the SALT I negotiations, the United States accepted the principle of adequate verification. During SALT II that term was also used. More than eight years ago, Harold Brown, who was then Secretary of Defense, defined for this Committee what he meant by adequate verification in his testimony on the SALT II Treaty, which was then before us. He said "any Soviet cheating which would pose a significant military risk or affect the strategic balance would be detected by our intelligence in time to respond effectively."

-- Is this the same standard you applied in concluding that the INF agreement is verifiable? If not, how does your standard differ?

A. The approach of this Administration is to provide for verification measures which go well beyond those found in previous arms control agreements. However, it is the substance of these measures and not the semantical difference between "effective" and "adequate" that is important.

During the course of its arms control negotiations with the Soviet Union, the Reagan Administration has stressed that any new agreement would have to be effectively verifiable. What we mean by effective verification is that if the other side moves beyond the limits of the Treaty in any militarily significant way, we would be able to detect such violation in time to respond effectively and thereby deny the other side the benefit of the violation. We believe that our ability to detect and respond to violations, owing to the combination of our NTM,

intelligence resources and the measures contained in the Treaty, is sufficient to deter Soviet violations by creating a significant risk of detection and raising the cost of potential cheating scenarios.

The INF Treaty goes well beyond the reliance on NTMs which characterized previous nuclear arms control treaties including SALT I and SALT II. In addition, the INF Treaty has specific cooperative measures to enhance the use of NTM to help determine that SS-20s are not at SS-25 bases.

Beyond NTM, the INF Treaty has a number of other specific verification measures which are spelled out in detail. These include bans on production and flight testing of all INF missiles, which are important to preclude the Soviets from maintaining a reliable and viable covert force. The data exchange in the INF Treaty is much more extensive than in previous treaties and provides technical parameters as well as numbers and locations of deployed and non-deployed systems to be eliminated. This, together with the locational restrictions and announced transits in the Treaty, which limit missiles and launchers to deployment areas, support facilities or notified transit, facilitates the detection of an illegal missile or launcher.

Moreover, the provision of this data achieves the important objective of encouraging greater Soviet openness in military matters. All items in the inventory are subject to specific elimination procedures which are subject to verification by on-site inspectors. Finally, there is a wide variety of on-site inspection measures geared to specific Treaty provisions, including monitoring of the final assembly facility for a non-INF missile which uses a stage that is outwardly similar to but not interchangeable with the first stage of the SS-20.

Thus the structure of the verification regime has deliberate redundancies. Such double-checking is what provides its power. One layer of the regime builds on another, to create a whole that is greater than the sum of its parts. Consequently it is clear that in the INF Treaty, we achieved a much more extensive verification regime than sought in past arms control agreements and one that meets the more stringent standards which this Administration has applied to arms control.

SENATOR PELL'S QUESTIONS ANSWERED FOR THE RECORD
BY THE HONORABLE PAUL H. NITZE

1. Internal Opposition to Suspect Site Inspections.

According to a number of accounts, a vigorous debate took place within our government regarding the desirability of an "anytime, anywhere" challenge inspection regime.

(1a) -- Was there significant opposition to such inspections? If so, please explain the positions of the various agencies.

(1b) -- What are the verification benefits of access to all "suspect sites" in the Soviet Union?

(1c) -- Under an "anytime, anywhere" inspection regime, to what extent would we ultimately rely on NTM to determine which sites we wish to inspect?

(1d) -- What are the risks associated with allowing Soviet inspectors access to U.S. "suspect sites."

(1e) -- Do you believe the risks of allowing Soviet inspectors access to "suspect" sites in the U.S. outweigh the verification benefits of U.S. access to "suspect" Soviet sites?

(1f) -- Could you provide the Committee with a net assessment on this subject? The assessment should discuss the benefits to verification of U.S. access to facilities in the Soviet Union under progressively more intrusive verification regimes, including an "anytime, anywhere" regime. The assessment should discuss the risks to U.S. security posed by Soviet access to facilities in the United States under the various regimes.

A. (1a) We do not comment on internal executive branch deliberations.

(1d) The risks of allowing Soviet inspectors access to what they might categorize as "suspect sites" include the risks of compromising sensitive facilities or subjecting private U.S. firms to unwarranted intrusion on their property. These risks can be minimized by working out in advance appropriate inspection procedures and treaty provisions.

(1b-1f) Additional verification measures, like suspect site inspections, would decrease the risk of cheating. If suspect site inspections were agreed, NTM would still play a major role in determining which sites to inspect.

The decision not to require, in an INF Treaty, "anytime, anywhere" inspections resulted from a reassessment of the requirements to achieve a redefined objective -- effective verification of the total elimination of an entire class of missiles (double global zero) instead of verification of established numerical limits.

Because a verification regime is reciprocal, we had to weigh verification benefits against U.S. and Allied security concerns. In the context of the Soviet acceptance of our "double zero" proposal, we concluded that "suspect site" inspections were not essential given the extensive and unprecedented nature of our verification procedures as a whole. We believe the right balance was struck. Moreover, even with such inspections, you could not have "absolute" verification.

2. U.S. Negotiating Position on Suspect Site Inspections.

According to a number of accounts, beginning in August 1987, the Administration scaled back its demands for on-site inspections of "suspect sites" in the Soviet Union. The treaty only provides for inspection of facilities declared or formerly declared facilities i.e., no suspect sites.

-- Could you please describe the evolution of the U.S. position on inspection of suspect sites from August 1987 up through the completion of the treaty in December 1987?

-- To what extent will our inability to inspect "suspect" sites impair our ability to verify Soviet compliance with the treaty?

-- What would we have gained from a provision allowing on-site inspections of all suspect sites?

-- To what extent would our confidence in Soviet compliance be significantly increased if the treaty allowed short-notice inspection of all suspect sites?

A. In the context of an INF agreement that would have permitted the U.S. and USSR each to retain missiles and launchers capable of carrying 100 warheads, the U.S. proposed inspection of any site in either country where such missiles and launchers could be located -- suspect sites. In response to the U.S. proposal for suspect site inspections, the Soviets proposed that only U.S. military bases in third countries be subject to such inspections. This proposal was clearly unacceptable. After the Soviet Union agreed to the global double zero proposal, in July 1987, the U.S. reexamined its proposals for suspect-site inspection. Since any verification provisions would be reciprocal, the U.S. weighed the potential risk of permitting Soviet access in the U.S. to sensitive facilities against the potential verification benefits of suspect-site inspection. In that context, the U.S. determined

that on balance, and given the interlocking web of verification provisions in the Treaty, overall U.S. interests were served by on-site inspections short of "anytime, anywhere" inspections.

3. Counting Non-Deployed Missiles. Earlier agreements between the U.S. and the USSR have not limited non-deployed missiles because of the difficulty of verifying such a limitation. There are already reported discrepancies between the data provided by the Soviets in the MOU and earlier U.S. estimates of the number of non-deployed missiles banned by the treaty.

-- Are you concerned about the difficulty of verifying the elimination of all non-deployed missiles covered by the treaty?

-- Do you anticipate that such verification difficulties could fuel uncertainties whether all non-deployed missiles have, indeed, been eliminated? What is your view of the significance of this problem?

-- Would short-notice, on-site challenge inspections of all "suspect" sites have significantly boosted our ability detect stockpiles or production of treaty-banned weapons?

-- Does the principle of including non-deployed missiles set a precedent for the potential START Treaty?

A. The term "non-deployed missile" has a specific meaning within the context of the INF Treaty. The term describes the location of a missile and not its operational status.

Non-deployed missiles are missiles located at declared missile support facilities or in notified transit. The sides were obligated to list the numbers of all missiles at missile support facilities in the MOU and must provide an initial update 30 days after the Treaty enters into force. Any missile not located in a deployment area, missile operating base, missile support facility or in transit after the Treaty enters into force will be a violation. During the baseline inspection we will be able to verify the numbers of non-deployed missiles at designated facilities. In addition, after a facility is "eliminated", or no longer contains Treaty-limited items, we will have the right to conduct a close-out inspection to verify

that indeed there are no more Treaty-limited items at the facility. We will also have the right to inspect "eliminated" or "formerly declared" facilities for 13 years after the Treaty enters into force to verify that the facility continues to contain no Treaty-limited missiles, launchers and support equipment.

It was the conclusion of the Administration that in the context of the INF Treaty, "suspect site" inspections added little to the already extensive, unprecedented INF verification regime when balanced against the possible risks to other U.S. and Allied security interests which they raised.

4. Effectiveness of Verification. Are you confident that the treaty can be effectively verified? If so, what are your criteria for determining that the verification regime is "effective"? If the verification regime is "effective," does that mean that any undetected violation would be militarily insignificant? What is the distinction between militarily significant violations and those that are not militarily significant? Should an effective verification regime be capable of detecting both types of violations?

A. The approach of this Administration is to provide for verification measures which go well beyond those found in previous arms control agreements. However, it is the substance of these measures and not the semantical difference between "effective" and "adequate" that is important.

During the course of its arms control negotiations with the Soviet Union, the Reagan Administration has stressed that any new agreement would have to be effectively verifiable. What we mean by effective verification is that if the other side moves beyond the limits of the Treaty in any militarily significant way, we would be able to detect such violation in time to respond effectively and thereby deny the other side the benefit of the violation. We believe that our ability to detect and respond to violations, owing to the combination of our NTM, intelligence resources and the measures contained in the Treaty, is sufficient to deter Soviet violations by creating a significant risk of detection and raising the cost of potential cheating scenarios.

The INF Treaty goes well beyond the reliance on NTMs which characterized previous nuclear arms control treaties including SALT I and SALT II. In addition, the INF Treaty has a specific cooperative measure to enhance the use of NTM to help determine that SS-20s are not at SS-25 bases.

Beyond NTM, the INF Treaty has a number of other specific verification measures which are spelled out in detail. These include bans on production and flight testing of all INF missiles, which are important to preclude the Soviets from maintaining a reliable and viable covert force. The data exchange in the INF Treaty is much more extensive than in previous treaties and provides technical parameters as well as numbers and locations of deployed and non-deployed systems to be eliminated. This, together with the locational restrictions and announced transits in the Treaty, which limit missiles and launchers to deployment areas, support facilities or notified transit, facilitates the detection of an illegal missile or launcher.

Moreover, provision of this data achieves the important objective of encouraging greater Soviet openness in military matters. All items in the inventory are subject to specific elimination procedures which are subject to verification by on-site inspectors. Finally, there is a wide variety of

on-site inspection measures geared to specific Treaty provisions, including continuous on-site monitoring of the final assembly facility for a non-INF missile which uses a stage that is outwardly similar to, but not interchangeable with, the first stage of the SS-20.

Thus the structure of the verification regime has deliberate redundancies. Such double-checking is what provides its power. One layer of the regime builds on another, to create a whole that is greater than the sum of its parts. Consequently it is clear that in the INF Treaty, we achieved a much more extensive verification regime than sought in past arms control agreements and one that meets the more stringent standards which this Administration has applied to arms control.

We would regard any cheating with the greatest concern and will insist on full compliance. Judgments about the military significance of Soviet cheating must be made on a case-by-case basis. We do not want to be explicit in defining "militarily significant" in the abstract. In determining the military significance of any given case of cheating, we would take into account the following kinds of factors:

- Quantitative level of cheating and the overall threat it poses to U.S. and NATO defenses.

- Qualitative factors, including the kind or kinds of weapons involved in any cheating and their specific capabilities for target coverage, survivability, etc.

- Our assessment of the state of readiness and training of a cheating force.

- The extent to which other forces available to the Soviets render a cheating force largely redundant or conversely comprised a significant additional military capability.

- The extent to which the U.S. and its Allies possessed existing military forces or surge capabilities which could permit an effective counter to a Soviet cheating force.

- The overall political and military situation surrounding the discovery of Soviet cheating, e.g., whether that situation was one of relative stability, one of tension, etc.

5. Verifying the Ban on Non-Deployed Missiles. (a) Are you confident that we can effectively verify the ban on non-deployed missiles covered by the treaty? (b) If so, does that mean the Soviets cannot have hidden away a militarily significant number of non-deployed missiles? (c) In your view, how many hidden non-deployed missiles would constitute a militarily significant treaty violation?

A. (a,b) We cannot rule out the possibility that the Soviets could hide non-deployed INF missiles. However, the INF Treaty's provisions work together to complicate and inhibit the military effectiveness of any Soviet attempt to cheat. For example, the Soviets would have great difficulty in making any covertly stored missiles militarily effective because of the INF Treaty's ban on flight-testing and overt training. Because of the flight-test ban, the reliability of any hidden missiles will decline over time, and the Soviets would be unable to conduct flight-tests to prove out any covert production facility--and flight-testing is a key means of ensuring that missiles are assembled properly. Also, the Treaty's ban on INF missiles allows us to unambiguously characterize as a violation any illegal activity (such as mobile missile training) that we detect.

A. (c) I do not believe it is wise to speculate as to a particular number; such determinations should be made on a case-by-case basis taking into account the situation at the time and analyzing the circumstances in concert with the Joint

Chiefs and other appropriate authorities. In any case, the INF Treaty's ban on flight-testing and the need to train a covert force (which would then be susceptible to detection) inhibit the military utility of any hidden non-deployed INF missiles.

6. GLCMs vs. SLCMs and ALCMs. The treaty bans intermediate-range ground-launched cruise missiles, but not sea-launched and air-launched cruise missiles of similar ranges. (a) Can you distinguish between these three different types of cruise missiles? Under what conditions and standards is a cruise missile considered to be a GLCM?

(b) Is our ability to distinguish between different types of cruise missiles dependent on distinguishing between their launchers? If so, please explain how this principle of focusing on the launchers of cruise missiles will be used in the START Treaty? Should we only count launchers for SLCMs and ALCMs?

A: (a) As you are aware, the INF Treaty deals only with ground-launched systems. Although there can be observable features for distinguishing air, sea, and ground-launched cruise missiles, differences in launchers, deployment and associated training provide the primary method to distinguish between types of cruise missiles. For example, if we detected a mobile land-based cruise missile launcher, we would assess it as being for a GLCM--not an ALCM or SLCM. The INF Treaty facilitates this distinction by stipulating that only fixed launchers are used for SLCM or ALCM test purposes. More specific details on our monitoring capabilities can be provided by the Intelligence Community at the classified level.

(b) In START, as in INF, the association of a particular missile with a particular type of launcher will be important. The role of launchers with regard to specific cruise missile limitations, counting rules and verification provisions in START is still under discussion with the Soviets.

7. Production of GLCMs. Are you confident that we could detect the production of Soviet ground-launched cruise missiles? What is the distinction, if any, between a GLCM and an ALCM of similar range?

A: Detecting illegal GLCM production does not depend only on detecting a single element ~~of the system~~ -- the missile -- but can be accomplished by detecting a pattern associated with deployment of the GLCM system. By itself, covert production of cruise missiles could be very difficult to detect, since their manufacture does not require large, distinctive facilities such as those producing solid-propellant INF missiles.

Some GLCMs could be produced under the guise of legal ALCM/SLCM production; in the flight-test phase, it could be difficult to distinguish a GLCM from an ALCM/SLCM. However, the INF Treaty bans the flight testing of cruise missiles from land-based launchers; if we detected a mobile land-based cruise missile launcher, we would assess it as being for a GLCM, not an ALCM or SLCM. Once the GLCM program moved into the training/deployment phase, moreover, our ability to detect its existence increases due to the requirements for a mobile GLCM launcher and support structures (see also answer to question 6). More specific details on our monitoring capabilities can be provided by the Intelligence Community at the classified level.

8. Testing Cruise Missiles. Article VII (11) of the Treaty states that "a cruise missile which is not to be used in a ground-based mode shall not be considered to be a GLCM if it is test-launched at a test site from a fixed land based launcher ... which is distinguishable from GLCM launcher."

-- Does this exemption raise the possibility of the Soviet Union converting militarily significant numbers of sea-launched cruise missiles that have been tested on land into ground-launched cruise missiles? Does this provision provide a loophole of any kind?

-- If the Soviets moved a test launcher from one part of a test range to another would that violate the requirement that all land-based test-launchers must be fixed?

A This paragraph permits the testing, not deployment of SLCM from land-based launchers. As the launchers permitted under this Article are only fixed launchers at test sites, no missile on such a launcher would be permitted to be mobile. We do not anticipate that either side will require more than a small number of missiles at such test sites at any one time.

On the basis of the information given in the hypothetical question, the answer is "not necessarily." If the test launcher proved to be mobile, this would be a violation. The fact that a launcher can be moved from one part of a test range to another might indicate that the launcher is mobile, but may not itself be a sufficient basis to make that conclusion. Other factors which would be taken into account in making a judgment about a launcher being mobile might include the length of time required, the extent of site preparation required, or the nature of the equipment required to move the launcher.

9. Portal Monitoring. The treaty provides for constant portal monitoring of the Soviet plant in Votkinsk, where SS-20 missiles have been assembled.

-- Have we worked out how the missiles leaving this Votkinsk plant will be inspected?

-- What is the likelihood that the Soviets could produce and assemble additional SS-20s without detection?

-- Are there any other plants where the SS-20 was assembled or where SS-20 missile stages are produced? If so, why didn't we demand portal monitoring of these plants?

A. Section IX of the Inspection Protocol provides detailed procedures for inspecting missiles leaving the Votkinsk plant.

The U.S. will use portal monitoring as a way to verify that no SS-20s are leaving the Votkinsk facility in the guise of SS-25s. In the case of the SS-20, the U.S. insisted on additional measures since the Soviets acknowledged that the first stage of the SS-25, which is not limited by the Treaty, is outwardly similar to, but not interchangeable with, the first stage of the SS-20. Thus, the Soviets agreed U.S. establishment of to continuous monitoring at Votkinsk where the SS-25 final assembly is completed. Votkinsk is the only former SS-20 final assembly facility where non-Treaty-limited missiles are currently being assembled that have a stage that is outwardly similar to a stage of the SS-20. The Treaty also gives the U.S. the right to install a continuous monitoring system at any other facility at which such final assembly might be undertaken.

While no agreement is ever 100% verifiable, we feel that the measures in this Treaty taken together create major disincentives to Soviet cheating by raising significantly the cost that the Soviet Union would have to incur in order to covertly deploy a significant force of banned missiles and raising the probability of getting caught if they do cheat. This is particularly true because of the flight-testing and production bans which, over time, would impair the military utility and viability of any covert force. In addition, the total ban on systems covered by this Treaty and the on-site inspection regime will enhance U.S. capabilities to detect cheating that is extensive enough to pose a threat to U.S. or Allied security.

10. Overall Value of On-Site Inspections. The basic provisions of the treaty are a ban on production, testing and deployment of intermediate-range and shorter-range missiles. To what extent can we effectively verify these three basic provisions without on-site inspections?

A. The bans on production and testing act in concert with continuous on-site monitoring rights, NTM and data exchange to help deter cheating and allow for effective verification. The plant in Votkinsk (and any other facility where a missile would be assembled with a stage similar to but not interchangeable with that of the SS-20) will be monitored by a continuous U.S. on-site presence, which will ensure that SS-20s are not exiting that facility in the guise of SS-25s. Thus, the Soviets would be forced to turn to a covert assembly line if they sought to assemble SS-20s illegally. If they did so, they would need "to qualify" that covert line by testing the missiles or accept great risk through uncertainty in performance. Such testing would be readily detectible by U.S. NTM.

11. Compliance. A month before the INF Treaty was signed, President Reagan said "the Soviets have an extensive record of violating past arms control agreements." And in his report to the Congress of March 1987 on Soviet compliance he said: "Compliance with past arms control commitments is an essential prerequisite for future agreements."

-- Does the Administration consider the Soviets to be now in compliance with past agreements?

-- If not, why did the Administration change its policy?

-- Does the Administration believe that the Soviets have improved their compliance record?

-- Against the background of those charges, do you have any misgivings about entering into this agreement?

A. The U.S. has not discerned any basic changes in the Soviet compliance record. In his December 1987 Report on Soviet Noncompliance with Arms Control Agreements, the President stated that:

The Soviet Union to date has not corrected its noncompliance activities. Indeed, since the last report, there has been an additional case of Soviet violation of the ABM Treaty in the deployment of an ABM radar at Gomel, and other violations are continuing ... The Gomel violation can be quickly corrected by the Soviet Union if it so chooses. We are urging them to take the actions needed to do so, and to resolve other longstanding violations, especially that of their radar located at Krasnoyarsk.

Despite these violations, the INF Treaty is, on its own merits, in the national interest of the United States and its Allies. By eliminating Soviet INF missile systems, the Treaty will remove a significant threat to the U.S. and our Allies. It also establishes the precedent of asymmetrical reductions to equal levels and a stringent verification regime that will provide important precedents for verifying future arms agreements.

Further, this Treaty is not based on trust, but on the most stringent and comprehensive verification regime in the history of strategic arms control. While the INF Treaty does not guarantee Soviet compliance -- no treaty can -- it builds on lessons of the past, and its provisions and our National Technical Means increase the cost and complexity of cheating, as well as the risk of its detection.

Nonetheless, we are pressing and will continue to press the Soviets to end their noncompliance with arms control agreements.

14. Guaranteed Response. The President reportedly suggested that in the event of a Soviet violation of the treaty we would rebuild and return the Pershings to Europe. Could you please give us your views on the wisdom of a noncompliance regime that specifies in advance U.S. responses to possible Soviet violations?

A. We believe that it would be unwise to attempt to specify in advance U.S. responses to possible Soviet violations. Any U.S. decision to respond to a Soviet violation would have to be made on a case-by-case basis, taking into account all of the particulars of the situation, including the Soviet response to concerns we raised in the appropriate channel. We would consult closely with Congress and our Allies on the appropriate steps to take to protect U.S. and Allied security. We would, of course, be entitled, pursuant to generally recognized principles of international law, to invoke a Soviet material breach of the Treaty as grounds for terminating the Treaty or suspending its operation in whole or in part.

13. Role of the Special Verification Commission. Article XIII of the treaty establishes a Special Verification Commission (SVC).

-- Is it the Administration's intent to have all ambiguous treaty compliance issues taken up by the Commission?

-- Will the Commission discuss any differences in Treaty interpretation that may arise?

-- Is the Special Verification Commission analogous to the Standing Consultative Commission (SCC) established pursuant to the ABM Treaty? If not, how are they different?

A. The Commission is one mechanism where the two sides can meet to attempt to resolve questions relating to compliance with the Treaty and to agree upon such measures as may be necessary to improve the viability and effectiveness of the Treaty. The SVC could have a role in clarifying the technical aspects of specific compliance issues and in developing procedures and understandings to reduce the possibility of future ambiguous situations. The sides can also use diplomatic channels and, if necessary, high-level bilateral meetings to seek to resolve compliance questions.

The SVC differs from the Special Consultative Commission (SCC) in that it will not have regular meetings but can meet any time at the request of either party, and the level of representation can be adjusted as appropriate. Neither side can refuse a request for such a meeting. Many of the tasks given the SCC in Article XIII of the ABM Treaty, such as the development of procedures for the elimination of ABM Treaty-limited systems, have already been negotiated and are contained in the INF Treaty.

14. Structure of the Special Verification Commission.

Will the Special Verification Commission be a permanent body with a full time staff? If not, will the Commission convene regularly or only on those occasions when compliance issue arise? To whom will the principal American representative on the Commission report?

A. Article XIII of the Treaty establishes the Special Verification Commission and states that "if either Party requests, they shall meet within the framework of the Special Verification Commission to: (a) resolve questions relating to compliance with the obligations assumed; and (b) agree upon such measures as may be necessary to improve the viability and effectiveness of the Treaty." The U.S. sought to keep the SVC as flexible in nature as possible and thus deliberately chose not to spell out its internal operations.

15. Organizing the U.S. Inspection Effort. Under the treaty, notifications of on-site inspections are to be communicated through the Nuclear Risk Reduction Centers. According to the Administration's plan, the American Risk Reduction Center will be based at the State Department. The responsibility for conducting the inspections, however, will be vested in a newly created office at the Defense Department.

-- Why do you want to divide these responsibilities between the State Department and the Defense Department?

-- Would it make more sense to consolidate the responsibility for the notification and execution of on-site inspections in a single organization? Would it make more sense organizationally to consolidate both functions at the State Department and ensure that other Departments are well represented on the staff?

-- Which government agency will be principally responsible for determining whether a treaty violation has taken place?

-- Should one entity be responsible for the implementation of this treaty, which would include the notification and data supplied to the NRRCs, the inspections conducted by the On-Site Inspection agency, and then the determination of Soviet and U.S. compliance?

A. The Nuclear Risk Reduction Center (NRRC) and the On-Site Inspection Agency (OSIA) were established for different purposes and the scope of their respective responsibilities is quite different. The division of labor between these two agencies with respect to INF Treaty implementation is logical in view of their respective responsibilities and the special skills which reside in the two USG departments to which these two organizations belong. To facilitate government-wide coordination of the activities of the NRRC and OSIA, it was decided that the deputy staff director of the NRRC be a military officer and that the two OSIA deputy director positions be filled by STATE and ACDA officers.

OSIA, as a Defense Department-based organization, has readily available to it the large body of military personnel with the technical expertise required to ensure that inspections of Soviet INF Treaty-related sites and items are conducted in a way which will best serve U.S. interests. The NRRC, whose role includes intergovernmental communications of a diplomatic nature beyond INF Treaty implementation, is appropriately sited in the State Department where it is under the supervision of the Secretary of State and manned by officers with extensive experience in Soviet affairs.

The NRRC agreement, which predates the signing of the INF Treaty, was negotiated with a view, inter alia, to establishing a direct communication link between the U.S and Soviet governments for a variety of notifications which relate to a number of U.S.-Soviet agreements, and not just the INF Treaty. For example, notifications of ballistic missile launches under Article 4 of the 1971 US-Soviet Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War and under paragraph 1 of Article VI of the 1972 US-Soviet Agreement on the Prevention of Incidents On and Over the High Seas will be made through the NRRC. The NRRC may also be tasked with additional duties under various arms control arrangement now being considered.

All relevant USG Executive branch agencies participated in the INF Treaty negotiation process. They were represented on the INF negotiating team in Geneva and in the interagency group in Washington responsible for formulating policy guidance to the INF delegation. This helped ensure that the Treaty eventually concluded with the Soviets best represented overall U.S. interests. For similar reasons, it is essential that a number of U.S. government departments and agencies be involved in implementation of the INF agreement.

With this objective in mind, it was decided to assign specific INF Treaty implementation functions to a number of U.S. government entities, rather than trying to establish a centralized body responsible for all aspects of Treaty implementation. In this connection, the NRRC has an important relationship with OSIA with regard to a number of INF Treaty notifications which bear on inspection activities. However, the NRRC also is responsible for transmitting a number of INF Treaty notifications, -- e.g., those concerning data updates -- which relate more to other USG agencies than to OSIA's responsibilities.

With regard to responsibility for determining whether a Treaty violation has occurred, judgments of Soviet compliance with the INF Treaty will be made by the Administration in an

analogous manner to that employed for other arms control agreements. The primary mechanism in aiding the President in these decisions is the interagency-staffed Arms Control Verification Committee (ACVC), which is responsible for reviewing monitoring information and analyses and providing judgments regarding Soviet compliance with arms control agreements.

RESPONSES OF MICHAEL J. MATHESON TO QUESTIONS
ASKED BY THE COMMITTEE

1. Article XIV. What effect would Article XIV have on future U.S. assistance to a third party's effort to deploy a missile covered by the INF Treaty? For example, could the United States assist a British effort to deploy a ground-launched cruise missile with a range of 3,000 kilometers?

A. The Treaty prohibits us from producing or transferring a missile, missile stage or launcher for a Treaty-limited GLCM or GLBM. It does not prohibit the production or transfer of lesser components (including guidance elements), technology, or blueprints, and the United States rejected Soviet proposals for such prohibitions. In any event, each such issue would have to be dealt with on a case-by-case basis, taking into account the obligation to comply in good faith with the Treaty.

2. Article VI. Article VI prohibits production of intermediate-range missile stages. Does that prohibition cover stages of other missiles if those stages are "interchangeable" with stages of intermediate-range missiles?

A. Yes.

SPEECH BY EDURARD SHEVARDNADZE AT SESSION OF THE
FOREIGN AFFAIRS COMMISSIONS OF THE USSR SUPREME
COUNCIL OF THE UNION AND COUNCIL OF NATIONALITIES

(SPEECH BY EDURARD SHEVARDNADZE, MEMBER OF THE CPSU CENTRAL COMMITTEE POLITBURO AND USSR FOREIGN MINISTER, AT SESSION OF THE FOREIGN AFFAIRS COMMISSIONS OF THE USSR SUPREME SOVIET COUNCIL OF THE UNION AND COUNCIL OF NATIONALITIES, HELD TO DISCUSS RATIFICATION OF THE INF TREATY, IN THE KREMLIN HALL OF THE COUNCIL OF NATIONALITIES--LIVE)

(TEXT) ESTEEMED COMRADE DEPUTIES! ESTEEMED GUESTS! THE GOVERNMENT HAS PRESENTED FOR YOUR JUDGEMENT THE TREATY BETWEEN THE USSR AND THE UNITED STATES ON ELIMINATING MEDIUM- AND SHORTER-RANGE MISSILES WHICH WAS SIGNED BY MIKHAIL SERGEYEVICH GORBACHEV, GENERAL SECRETARY OF THE CPSU CENTRAL COMMITTEE AND U.S. PRESIDENT REAGAN ON 8 DECEMBER 1987 IN WASHINGTON. FOR THE FIRST TIME IN THE HISTORY OF THE NUCLEAR DECADES WHICH ANNOUNCED THEIR ARRIVAL WITH THE TRAGIC INCINERATION OF HIROSHIMA, TWO GREAT POWERS HAVE AGREED ON A REAL REDUCTION IN CERTAIN MODERN TYPES OF WEAPONRY. OVER 2,500 MISSILES EQUIPPED WITH NUCLEAR WARHEADS ARE TO BE ELIMINATED. THE SOVIET UNION IS TO DESTROY 1,752 MEDIUM- AND SHORTER-RANGE MISSILES WHILE THE UNITED STATES WILL NO LONGER HAVE ANY LAND-BASED NUCLEAR MISSILES WITH A RANGE OF BETWEEN 600 TO 6,500 KM.

THE FORMULATION OF THE TREATY REQUIRED SEVERAL YEARS OF STRENUOUS LABOR IN WHICH DIPLOMATS, MILITARY MEN, TECHNICAL EXPERTS, SCIENTISTS, POLITICAL FIGURES, MINISTERS FROM BOTH SIDES AS WELL AS THE HIGHEST LEADERS OF OUR COUNTRIES TOOK PART. THE THREE SOVIET-U.S. SUMMIT MEETINGS WHICH HAVE TAKEN PLACE SINCE THE APRIL 1985 PLENUM OF THE CPSU CENTRAL COMMITTEE IN GENEVA, REYKJAVIK, AND WASHINGTON WERE LANDMARKS WHICH TO A DECISIVE DEGREE SECURED THE REACHING OF ACCORD. THE PROGRAM FOR NUCLEAR DISARMAMENT PUT FORWARD BY MIKHAIL SERGEYEVICH GORBACHEV ON 15 JANUARY 1986 WAS OF FUNDAMENTAL SIGNIFICANCE TO THE ELABORATION OF THE SOVIET APPROACH TO TALKS. IT WAS TAKING INTO ACCOUNT THE REALITIES OF THIS PROGRAM AND THE PRACTICAL POSSIBILITIES ARISING FROM THEM THAT THE CONCEPTUAL AND AT THE SAME TIME CONCRETE CONTENT OF THE CAMPAIGN FOR A NUCLEAR-FREE EUROPE AND A NUCLEAR-FREE WORLD BY THE YEAR 2000 WAS DEVELOPED IN THIS PROGRAM. SOVIET DIPLOMACY RECEIVED PRECISE POINTERS FOR ENERGETIC ACTIONS TO ACHIEVE THE AIM WHICH HAD BEEN SET OUT.

WHEN WHAT SEEMED TO BE INSUPERABLE DIFFICULTIES AROSE, CREATIVE THINKING CONTINUED TO SEEK THE MOST PURPOSEFUL OPTIONS, THE OPTIONS FOR SOLUTIONS. THE STATEMENT BY MIKHAIL SERGEYEVICH GORBACHEV OF 28 FEBRUARY 1987, HIS SPEECH IN PRAGUE ON 10 APRIL, AND HIS INTERVIEW FOR THE INDONESIAN NEWSPAPER MERDEKA OF 21 JULY OF THE SAME YEAR, ARE VIVID EXAMPLES OF A SENSIBLE WEIGHING-UP, OF

FLEXIBILITY, OF THE ABILITY TO TAKE ALL FACTORS INTO ACCOUNT WHEN LOOKING FOR SOLUTIONS WHICH ARE IN LINE WITH THE INTERESTS OF THE SOVIET UNION AND ITS ALLIES, AND ALSO THOSE OF OTHER COUNTRIES, INCLUDING OUR PARTNERS AT NEGOTIATIONS.

THE HISTORY OF THE AGREEING ON THE TREATY IS A PERSUASIVE ILLUSTRATION OF LENIN'S IDEA THAT NOBODY WILL SERVE PEACE UP FOR US ON A PLATE.

AS FAR AS THE ELABORATION OF OUR POSITIONS IS CONCERNED, THESE WERE WORKED ON, UNDER THE DIRECT GUIDANCE OF THE POLITBURO OF OUR PARTY, THOROUGHLY AND FROM ALL ASPECTS, BY VARIOUS SOVIET MINISTRIES AND DEPARTMENTS, AND BY THE RELEVANT DEPARTMENTS OF THE PARTY CENTRAL COMMITTEE. ALL OF THIS LARGE-SCALE AND MULTIFACETED WORK WAS CARRIED OUT COLLECTIVELY, WITH A SENSE OF RESPONSIBILITY AND WITH PROFOUND UNDERSTANDING OF HOW IMPORTANT THE MATTER WAS FOR THE SECURITY OF THE STATE AND FOR THE GUARANTEEING OF INTERNATIONAL DEVELOPMENT, WHICH PROMISES A NUCLEAR-FREE AND VIOLENCE-FREE FUTURE FOR THE WHOLE WORLD.

ONE SHOULD NOTE IN PARTICULAR THE IMPORTANT ROLE WHICH WAS PLAYED BY OUR ALLIES, WHO NOT ONLY SUPPORTED THE CONCEPT OF THE TREATY, BUT ALSO HELPED TO IMPLEMENT IT WITH THEIR ADVICE AND SPECIFIC PROPOSALS. IN THIS SENSE, THE TREATY THAT HAS BEEN SIGNED IS THE PRODUCT OF THE JOINT CREATIVE WORK OF THE WHOLE SOCIALIST COMMUNITY, AND PRIMARILY OF THE WARSAW TREATY MEMBER STATES. OTHER COUNTRIES AND PUBLIC MOVEMENTS HELPED MAKE THE ACCORD; SPEAKING IN THE WORDS OF MIKHAIL SERGEYEVICH GORBACHEV, ON THE WHOLE, THE TREATY WHICH HAS BEEN SIGNED IS THE RESULT OF THE JOINT EFFORTS OF ALL PEOPLES; IT IS OUR COMMON TRIUMPH. THE DIFFICULTIES WHICH WERE ENCOUNTERED ON THE WAY TO THE TREATY WERE CONNECTED BOTH WITH OBJECTIVE CAUSES--THE UNPRECEDENTED NATURE OF THE SUBJECT OF THE TREATY--AND WITH SUBJECTIVE ONES--THE ATTEMPT BY THE UNITED STATES TO GAIN A UNILATERAL ADVANTAGE. I SHALL CITE A FEW EXAMPLES IN CONNECTION WITH THIS. WE HAD TO DEVOTE CONSIDERABLE TIME AND EFFORT IN ORDER TO OVERCOME THE U.S. DESIRE TO RESERVE FOR ITSELF A RIGHT NOT TO DESTROY THE PERSHING-2'S, BUT TO REEQUIP THEM INTO MISSILES WITH A SHORTER RANGE BY REMOVING THEIR SECOND STAGE.

(MORE)

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(TEXT) WE ALSO SUCCEEDED IN PREVENTING THE U.S. PLANS TO AVOID DESTROYING THEIR LAND-BASED MISSILES BY CONVERTING THEM INTO SEA-BASED MISSILES OR EVEN BY LEAVING THEM IN EUROPE WITHOUT NUCLEAR WARHEADS. THE U.S. DEMAND FOR THE ESTABLISHMENT OF A MEDIUM-RANGE MISSILE REDUCTION PROCEDURE UNDER WHICH AT FIRST ONLY SOVIET MISSILES WOULD BE REDUCED WHILE U.S. MISSILES WOULD REMAIN UNTOUCHED FOR A FAIRLY LENGTHY TIME WAS ALSO LIFTED. AND OUR POSITION, IMPLEMENTED IN THE TREATY, THAT THE APPEARANCE IN THE FUTURE OF NEW TYPES OF THE MISSILES BEING DESTROYED SHOULD NOT BE PERMITTED, OUGHT ALSO TO BE CONSIDERED TO BE A SERIOUS ACHIEVEMENT.

THE SOVIET SIDE HAS HAD TO DO A GREAT DEAL OF WORK IN ORDER FOR IT TO BE POSSIBLE FOR ITS CONCEPTION OF THE GLOBAL DOUBLE-ZERO TO FORM THE CORE OF THE AGREEMENT REACHED WITH THE UNITED STATES. MANY PEOPLE IN WASHINGTON DID NOT WANT TO GET DOWN TO ZERO ON THE ISSUE OF OPERATIONAL-TEACTICAL MISSILES.

THE RESOLUTION THAT WAS ACHIEVED TO THE VERY COMPLEX PROBLEM CONCERNING THE ELIMINATION OF 72 U.S. NUCLEAR WARHEADS ON WEST GERMAN PERSHING-1A MISSILES MADE A TANGIBLE CONTRIBUTION, FINALLY, TO MOVING MATTERS FORWARD TO AN ACCORD. THESE WARHEADS, AS A RESULT OF INTENSIVE DIPLOMATIC WORK IN SEPTEMBER 1987 HAVE BEEN COVERED BY ALL THE RELEVANT DESTRUCTION PROCEDURES ENVISAGED BY THE TREATY. IN THIS CONNECTION THE ROLE OF THE FRG GOVERNMENT SHOULD BE NOTED: ITS CONSTRUCTIVE SOLUTION ON THE PERSHING-A'S ASSISTED THE FINDING OF AN ACCORD.

UNDERSTANDABLY, AS YEGOR KUZMICH (LIGACHEV--FBIS) HAS ALREADY NOTED, THERE WOULD HAVE BEEN NO TREATY HAD THE U.S. ADMINISTRATION, OUR PARTNER IN THE TALKS, NOT DISPLAYED AT THE MOST IMPORTANT STAGE PRECEDING THE SIGNING A FEELING OF REALISM AND WILLINGNESS TO FIND MUTUALLY ACCEPTABLE SOLUTIONS. ACCORDINGLY, THE TREATY WHICH IS UNDER EXAMINATION IS A COMPROMISE THAT HAS BEEN ADJUSTED IN THE POLITICAL, MILITARY AND TECHNICAL RESPECTS AND A BALANCE OF INTERESTS AND SECURITY. UNDER THE CIRCUMSTANCES THAT HAVE COME INTO BEING THIS IS THE MAXIMUM THAT COULD REALISTICALLY BE ACHIEVED.

NEVERTHELESS, AN ANALYSIS OF PUBLIC OPINION AND OF THE ATTITUDES OF SOVIET PEOPLE, TO THE CONSIDERATION OF WHICH THE USSR MINISTRY OF FOREIGN AFFAIRS AND OTHER DEPARTMENTS MUST CONTINUE TO GIVE INCREASED ATTENTION DURING THE WORKING OUT AND IMPLEMENTATION OF FOREIGN POLICY SHOWS THAT THE TREATY HAS NOT BEEN RECEIVED IN A

STRAIGHTFORWARD WAY (DOGOVOR VOSTRINYAT U NAS V STRANE NEODNOZNACHNO) IN OUR COUNTRY. PERMIT ME FIRST OF ALL TO SAY THAT THE DISCUSSION AROUND THE TREATY WHICH HAS UNFOLDED IN SOCIETY

UGHT TO BE WELCOMED. THE ABSENCE OF INDIFFERENCE ON DECISIONS THAT ARE BEING TAKEN AND THE DISPLAY OF REAL POWER ON THE PART OF THE PEOPLE ARE A SIGN OF THE CHANGES THAT ARE TAKING PLACE IN THE COUNTRY. THESE CHANGES TESTIFY THE AFFIRMATION OF THE PROCESS OF

DEMOCRATIZATION AND THE ATMOSPHERE OF GLASNOST IN OUR SOCIETY.

A PEOPLE'S ACCEPTANCE TEST (NARODNAYA PRIYEMKA) OF THE CONCLUDED TREATY IS IN EFFECT TAKING PLACE. TAKING INTO ACCOUNT THE QUESTION ARISING AMONG OUR PEOPLE, AND UNDERSTANDING THE CONCERN DISPLAYED IN THIS CONNECTION, I SHOULD LIKE TO THROW FURTHER LIGHT ON CERTAIN SIGNIFICANT ASPECTS OF THIS INTERNATIONAL LEGAL DOCUMENT, AND ALSO OF THE CRITICAL COMMENTS ABOUT THE TREATY BEING HEARD IN THE WEST.

FIRST, THE LIQUIDATION OF TWO CLASSES OF CONTEMPORARY NUCLEAR WEAPONS IS UNDOUBTEDLY A STEP OF TREMENDOUS SIGNIFICANCE. HOWEVER, IT WOULD BE A SERIOUS ERROR TO SUPPOSE THAT BY THIS, THE ANSWER HAS ALREADY BEEN FOUND TO THE MAIN QUESTION OF THE NUCLEAR AGE: IS MANKIND'S SURVIVAL NOW GUARANTEED? THE HISTORIC WEIGHT OF THIS 4-PERCENT REDUCTION IN THE TOTAL OF NUCLEAR WEAPONS IS NOT THAT IT GIVES SUCH A GUARANTEE, IT DOES NOT, BUT THAT THESE ARE THE FIRST 4 PERCENT BY WHICH THE NUCLEAR ARSENALS OF THE SOVIET UNION AND UNITED STATES WILL BE REDUCED. BUT ONE MUST NOT PLAY DOWN THE SIGNIFICANCE OF THIS STEP. IF YOU IMAGINE, HYPOTHETICALLY, THAT THESE 2,500 MISSILES WHICH ARE THE SUBJECT OF THIS REDUCTION, WERE TO BE LAUNCHED AGAINST THEIR TARGETS, THEN THERE WOULD BE A CATEGORICAL ANSWER TO THE MAIN QUESTION OF THE NUCLEAR AGE: THE SILENCE OF PERISHED CIVILIZATION ON EARTH.

(MORE)

9 FEB 1321Z MEE

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(TEXT) SECOND, THE TREATY, AS IS KNOWN, PROVIDES FOR THE LIQUIDATION OF AN UNEQUAL QUANTITY OF SOVIET AND U.S. MISSILES. THE SOVIET UNION--THE FIGURES HAVE ALREADY BEEN GIVEN--IS TO DESTROY MORE MISSILES THAN THE UNITED STATES. CONCERN IS BEING EXPRESSED. IS THERE NOT AN INEQUALITY BETWEEN THE SIDES INHERENT IN THIS FACT? NO, THIS IS NOT SO, SINCE ELEMENTARY ARITHMETIC IS NOT ALWAYS CAPABLE OF RELIABLY REFLECTING THE MILITARY BALANCE, PARTICULARLY SHIFTS IN IT. WE ARE INDEED GOING TO DESTROY A GREATER NUMBER OF MISSILES. WHY? IN THE SPECIFIC HISTORICAL CONDITIONS, AN ASYMMETRY OF NUCLEAR ARSENALS HAS COME ABOUT IN A CERTAIN CLASS. THE SOVIET UNION, AT THE MOMENT OF SIGNING OF THE TREATY, HAD MORE OF THE MISSILES IN QUESTION THAN THE UNITED STATES. THE AMERICANS, IN PARTICULAR, HAVE NOT FULLY IMPLEMENTED THE NATO PROGRAM FOR THE DEPLOYMENT (RAZVERTYVANIYE) OF PERSHING-2'S AND LAND-BASED CRUISE MISSILES IN WESTERN EUROPE. THE TRUE CORRELATION WILL BE MEASURED IN THE FINAL OUTCOME OF THE REDUCTIONS. THE OUTCOME ENVISAGED IS AS FOLLOWS: NOT A SINGLE MISSILE OF THE CLASSES IN QUESTION POSSESSED BY THE UNITED STATES, NOT A SINGLE ONE BY THE SOVIET UNION. THE RESULTS OF SUCCESSIVE REDUCTIONS WILL BE SET EQUAL FOR BOTH SIDES AT THE ZERO LEVEL.

THIRD, THE QUESTION IS BEING ASKED: DO NOT THE NATO COUNTRIES GAIN MORE FROM THIS THAN THE WARSAW TREATY COUNTRIES, INASMUCH AS THE SOVIET UNION HAS AGREED TO THE TREATY, WHILE LEAVING ASIDE FOR THE TIME BEING THE QUESTION OF THE NUCLEAR POTENTIALS OF BRITAIN AND FRANCE? IT WOULD BE WRONG TO THINK SO. FIRST OF ALL, WE ARE TAKING INTO ACCOUNT THAT BRITAIN AND FRANCE HAVE STATED THEIR READINESS TO JOIN THE PROCESS OF NUCLEAR DISARMAMENT AT A LATER STAGE, AFTER THE NUCLEAR ARSENALS OF THE SOVIET UNION AND THE UNITED STATES HAVE BEEN REDUCED CONSIDERABLY. AT THE CURRENT LEVELS OF ARMAMENTS IT HAS TURNED OUT TO BE POSSIBLE BOTH FOR US AND THE AMERICANS TO OPT FOR QUITE DEEP REDUCTIONS WITHOUT FEAR FOR OUR SAFETY OR THAT OF OUR ALLIES. NO SIDE GAINS MILITARY SUPERIORITY FROM THAT. SECOND, THE PRESERVATION OF A DEADLOCK SITUATION AT THE TALKS OVER THE ENGLISH AND FRENCH MISSILE SYSTEMS WOULD HAVE MEANT THE ABSENCE OF ANY ACCORD AT ALL. THIS WOULD HAVE ALLOWED THE UNITED STATES TO BUILD UP, IN EUROPE, THE NUMBER OF ITS NUCLEAR MISSILES CAPABLE OF REACHING IMPORTANT TARGETS IN SOVIET TERRITORY AND IN THAT OF OUR ALLIES IN MINUTES. UNDERSTANDABLY, SUCH A COURSE OF EVENTS COULD NOT SUIT US. ONE HAD, FIRST OF ALL, TO SOLVE THE TASK OF ELIMINATING ONE OF THE MOST DANGEROUS KINDS OF WEAPONS, POSSESSING A HIGH LEVEL OF ACCURACY AND AN EXTREMELY SHORT FLIGHT TIME. INCIDENTALLY, OUR SS-20 MISSILES AND OPERATIONAL-TACTICAL MISSILES, WHICH, NATURALLY, WERE AIMED AT THE CORRESPONDING TARGETS IN WESTERN

EUROPE, HAVE THE SAME QUALITIES. SO THERE IS A TRUE BALANCE OF INTERESTS HERE.

FOURTH, THE QUESTION IS ASKED: WAS IT REALLY NECESSARY FOR THE SOVIET UNION TO ELIMINATE ITS MEDIUM-RANGE MISSILES IN ASIA, WHEN

THE UNITED STATES DID NOT HAVE THEM THERE? ONE OF THE MOST IMPORTANT TASKS BOTH IN POLITICS AND MILITARY STRATEGY IS TO FORESEE AND PREVENT A DISADVANTAGEOUS COURSE OF EVENTS. THE ABSENCE OF U.S. MEDIUM-RANGE MISSILES IN ASIAN TERRITORY TODAY DOES NOT MEAN THAT THEY WOULD NOT BE THERE BY TOMORROW. NOW, THANKS TO THE CONCLUDED TREATY, THEY WILL NOT BE THERE. ALSO, WE ARE PROCEEDING FROM THE FACT THAT OUR PREPAREDNESS TO ELIMINATE TWO CLASSES OF NUCLEAR MISSILES IN ASIA WILL PROMOTE A DECREASE OF U.S. NUCLEAR PRESENCE IN THAT REGION.

FIFTH, HARDLY HAD THE SIGNATURES ON THE TREATY PAGES DRIED AS THE MOST MILITARIST CIRCLES OF NATO AND THE UNITED STATES STARTED TALKING ABOUT THE NEED TO COMPENSATE FOR THE U.S. MISSILES LOST IN WESTERN EUROPE. ESSENTIALLY THE QUESTION IS OF STARTING A NEW NUCLEAR ARMS RACE ON THE CONTINENT, MOVING ADDITIONAL NUCLEAR FORCES INTO EUROPE OR CLOSER TO IT, AND SPEEDING UP ARMS MODERNIZATION. SUCH A COURSE OF EVENTS WOULD BE AT VARIANCE WITH THE EMERGING TENDENCY TOWARD REDUCING NUCLEAR ARMS AND DECREASING THE NUCLEAR THREAT.

(MORE)

9 FEB 1409Z MEE

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(TEXT) IN THE FINAL ANALYSIS, THE QUESTION IS: WHAT IS MORE ADVANTAGEOUS FOR THE CONSTRUCTION OF THE COMMON EUROPEAN HOME? SPARSITY OF WEAPONS IN EUROPE, ON THE BASIS OF SUFFICIENCY FOR DEFENSE, OR SATURATION WITH WEAPONS? EVERYONE WHO IS GENUINELY CONCERNED ABOUT THE SECURITY OF THE EUROPEAN PEOPLES FEELS NO HESITATION IN ANSWERING THIS QUESTION. IT IS INCREASING SPARSITY OF WEAPONS, AND NOT ONLY NUCLEAR ONES, WHICH PROMISES EUROPE CALM AND PROSPERITY, AND A BETTER RECOGNITION AMONG EUROPEANS OF HOW THEIR FURTHER DESTINY IS A COMMON ONE. THE SOVIET UNION, CONTRARY TO THE SPECULATIONS BEING PUT ABOUT IN THE WEST, IS NOT STRIVING TO CREATE ADDITIONAL SPLITS IN EUROPE, TO UNDERMINE TRADITIONAL EUROPEAN TIES. WE TAKE AS OUR PREMISE THAT THE RESULTS OF MIKHAIL SERGEYEVICH GORBACHEV'S VISIT TO THE UNITED STATES AND THE SIGNING OF THE TREATY ON MEDIUM- AND SHORTER-RANGE MISSILES ARE IMPORTANT STEPS FOR THE SOLUTION OF EUROPEAN PROBLEMS, AND EQUALLY IMPORTANT FOR THE REDUCTION OF THE MILITARY CONFRONTATION BETWEEN EAST AND WEST. ALL OF THIS CREATES FAVORABLE CONDITIONS FOR POSITIVE INTEGRATIONAL PROCESSES BOTH IN EUROPE AND WORLDWIDE.

SIXTH, CERTAIN WESTERN FIGURES ASSERT THAT THE PROCESS OF NUCLEAR DISARMAMENT SHOULD HAVE BEEN BEGUN NOT WITH NUCLEAR WEAPONS, BUT WITH CONVENTIONAL ONES. THE DESIGN IS A SIMPLE ONE: TO DELAY NUCLEAR DISARMAMENT, OR EVEN TO STOP IT. THE SOVIET UNION FAVORS SOLUTION OF THE PROBLEM OF CONVENTIONAL WEAPONS, AND IS PREPARED TO HAVE SPECIFIC DISCUSSIONS AT THE NEGOTIATING TABLE ABOUT THE ASYMMETRY IN ARMED FORCES AND WEAPONS OF NATO AND THE WARSAW TREATY ORGANIZATION THAT HAS ARISEN, SPECIFYING WHO HAS MORE RESERVES OF THIS OR THAT, AND WHO HAS LESS, AND IS PREPARED TO UNDERTAKE (?CASTING OF REAL LIGHT ON) THE ADVANTAGES IN INDIVIDUAL KINDS OF WEAPONRY WHICH EXIST ON BOTH SIDES. IT IS ALTOGETHER INTOLERABLE TO CREATE PAUSES IN THE MATTER OF DISARMAMENT, THAT IS A VERY IMPORTANT PREMISE. WE ARE IN FAVOR OF MOVING FORWARD WITHOUT HALTING IN ALL AREAS OF DISARMAMENT PROBLEMS, WITHOUT PRIOR LINKAGE AND CONDITIONS. SUCH IS THE LOGICAL FORM FOR FURTHER DEVELOPMENT OF THE PROCESS OF REDUCTION AND ELIMINATION OF WEAPONS; IT IS MORE ACCEPTABLE FOR ALL THAN THE FORMAL LOGIC OF THE OPPONENTS OF DISARMAMENT.

ALLOW ME TO TOUCH ON THE ISSUE OF MONITORING (KONTROL) SEPARATELY. IN UNDERTAKING PRACTICAL MEASURES TO REDUCE NUCLEAR ARMS, THE SOVIET UNION CANNOT ALLOW THE OTHER SIDE TO ATTEMPT TO VIOLATE THE ACCORD OR NOT TO WHOLLY FULFILL THE OBLIGATIONS ASSUMED. IN AFFAIRS CONCERNING THE NERVE-CENTERS OF STATE SECURITY THERE MUST BE NO AMBIGUITY IN MATTERS RELATED TO TREATY ADHERENCE. FOR THAT REASON, WE MADE SPECIAL EFFORTS TO SUPPLY THE TREATY WITH A THOROUGHLY ELABORATED MONITORING (KONTROL) SYSTEM OF

THE UTMOST RELIABILITY UNPRECEDENTED IN THE PRACTICE OF INTERNATIONAL RELATIONS. TOGETHER WITH THE USE OF NATIONAL TECHNICAL MEANS, THIS REGIME INCLUDES MEASURES, BASED ON COOPERATION, FOR ON-SITE INSPECTION, AND MOREOVER, AT SENSITIVE

SITES, VERY SENSITIVE ONES--AT MISSILE OPERATIONS BASES, ANCILLARY MISSILE FACILITIES, AND ENTERPRISES FOR THE PRODUCTION OF THE RELEVANT MISSILE WEAPONS. WE PROPOSED TO THE U.S. SIDE AN ALL-EMBRACING MONITORING (KONTROL) REGIME ENSHRINING THE VERY HIGHEST STANDARDS OF OPENNESS, GLASNOST, AND DEPTH OF MUTUAL VERIFICATION (PROVERKA). THE AMERICANS DID NOT AGREE WITH EVERYTHING, BUT IN THE END SOLUTIONS OF A BALANCED NATURE WERE FOUND. THUS, THE TREATY EMBRACES FACILITIES ON THE TERRITORY OF THE SOVIET UNION AND THE UNITED STATES, AS WELL AS ON THE TERRITORY OF ALLIES--THE GDR AND THE CSSR--AND FIVE ALLIES OF THE UNITED STATES--THE FRG, GREAT BRITAIN, ITALY, BELGIUM, AND NETHERLANDS.

THE TREATY ON MEDIUM- AND SHORTER-RANGE MISSILES IS OF PRIMARY IMPORTANCE NOT ONLY ON THE MILITARY-POLITICAL PLANE. ITS IMPLEMENTATION WILL ALSO BE A SPECIFIC CONTRIBUTION TO THE DEVELOPING PROCESSES OF RESTRUCTURING IN OUR COUNTRY, A RESTRUCTURING WHICH HAS EMBRACED ALL SPHERES OF THE SOVIET PEOPLE'S LIFE. YEGOR KUZMICH HAS ALREADY SAID THAT THE SIGNING OF THE TREATY ON MEDIUM- AND SHORTER-RANGE MISSILES CREATES A VERY FAVORABLE BACKDROP FOR RESOLVING THE MOST ACUTE REGIONAL CONFLICTS, TOO, SPECIFICALLY THE VERY CONVINCING AND HEARTFELT STATEMENT ON AFGHANISTAN THAT MIKHAIL SERGEYEVICH GORBACHEV, GENERAL SECRETARY OF OUR PARTY'S CENTRAL COMMITTEE, MADE YESTERDAY SHOWS THIS.

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9 FEB 1417Z MEE

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(TEXT) THE TREATY SHOWS, FIRST OF ALL, THAT THE INCREASED HOPES OF BREAKING THE VICIOUS CIRCLE OF THE ARMS RACE ARE REAL. IT CREATES A MORE FAVORABLE EXTERNAL ATMOSPHERE FOR THE SOVIET PEOPLE'S CREATIVE LABOR. THE TREATY WILL MAKE IT POSSIBLE TO RELEASE CERTAIN HUMAN RESOURCES, AS WELL AS TECHNICAL AND FINANCIAL MEANS FOR NEW PRODUCTION ACTIVITY; THE MEANS WHICH WOULD HAVE BEEN USED FOR MAINTENANCE, AND MODERNIZATION, AND PRODUCTION AND REPLACEMENT MEDIUM- AND SHORTER-RANGE MISSILES, BUT WILL BE SAVED NOW, WILL EXCEED BY FAR THE EXPENSES THAT WILL BE REQUIRED TO CARRY OUT THE ELIMINATION OF MISSILES.

IT IS ALSO DESIRABLE TO BEAR THESE CONSIDERATIONS IN MIND DURING DISCUSSION OF THE QUESTION OF RATIFYING THE TREATY ON MEDIUM- AND SHORTER-RANGE MISSILES. THE TREATY PRESENTED FOR THE EXAMINATION OF THE USSR SUPREME SOVIET IS A GOOD START ALONG THE ROAD TO SUBSEQUENT REDUCTIONS IN NUCLEAR WEAPONS. THE SOVIET UNION AND THE UNITED STATES AS WELL AS THE ALLIED STATES ON BOTH SIDES OF THE POLITICAL LINE DIVIDING EAST AND WEST AND THE WHOLE INTERNATIONAL COMMUNITY HAVE ACCUMULATED TRULY INVALUABLE PRACTICAL EXPERIENCE MAKING IT POSSIBLE TO MOVE ON FURTHER WITHOUT LOWERING THE TEMPO. ONE OF THE HIGHEST PRIORITY TASKS RIGHT NOW IS TO ACHIEVE SOVIET-U.S. ACCORD ON 50-PERCENT REDUCTIONS IN STRATEGIC OFFENSIVE WEAPONS IN CONDITIONS OF STRICT OBSERVANCE OF THE ABM TREATY IN THE FORM IN WHICH IT WAS SIGNED IN 1972. DURING THE DECEMBER MEETING BETWEEN THE LEADERS OF THE USSR AND THE UNITED STATES THE FOUNDATION WAS LAID WHICH ENABLES WORK TO BE COMPLETED IN THE NEXT 4 OR 5 MONTHS ON THE CORRESPONDING TREATY. THIS AIM CAN BE REALIZED BY THE TIME OF THE U.S. PRESIDENT'S FORTHCOMING VISIT TO THE SOVIET UNION. A REDUCTION BY ONE HALF IN THE MOST POWERFUL--IN TERMS OF THEIR DESTRUCTIVE FORCES--NUCLEAR STRATEGIC ARSENALS WILL MEAN THAT MANKIND WILL TRAVEL ONE HALF WAY OF THE PATH TOWARD COMPLETE ELIMINATION OF NUCLEAR ARMS.

AND NONETHELESS IT IS STILL DIFFICULT TO MAKE ANY FAIRLY CERTAIN FORECAST OF HOW OUR TALKS WITH THE AMERICANS ON THIS ISSUE WILL PROCEED. THERE IS SOMETHING ABOUT THE BEHAVIOR OF THE U.S. SIDE IN GENEVA THAT PUTS US SERIOUSLY ON OUR GUARD.

THE U.S. DELEGATION, DESPITE THE DIRECTIVES ENDORSED BY THE U.S. PRESIDENT AND THE GENERAL SECRETARY OF THE PARTY CENTRAL COMMITTEE IN WASHINGTON, THUS FAR CLEARLY DOES NOT WISH TO ABANDON THE DEBRIS OF THE OLD POSITIONS. IT IS HOPED THAT THE FORTHCOMING ARRIVAL IN MOSCOW OF MR SHULTZ, THE U.S. SECRETARY OF STATE, WILL MAKE IT POSSIBLE TO BRING THE NECESSARY CLARITY TO THE FURTHER INTENTIONS AND POSSIBILITIES OF THE U.S. ADMINISTRATION AS FAR AS THE RADICAL REDUCTION OF STRATEGIC OFFENSIVE WEAPONS AND THE OBSERVANCE OF THE ABM TREATY ARE CONCERNED.

IN CONDITIONS OF REDUCTION IN SOVIET AND U.S. NUCLEAR ARSENALS
THERE IS UNDOUBTEDLY GOING TO BE AN INCREASE IN THE ROLE OF OTHER
COMPONENTS OF THE ARMED FORCES OF NATO AND THE WARSAW TREATY. THIS
RELATES PRIMARILY TO THE COMPLEX OF QUESTIONS CONCERNING THE ARMED

FORCES AND CONVENTIONAL WEAPONS, DUAL-PURPOSE WEAPONS, AND
TACTICAL NUCLEAR WEAPONS. WE CONFIRM OUR PROPOSAL TO THE WEST TO
COME TO THE TABLE FOR TALKS, PUT OUR CARDS ON THE TABLE, AND TO
TRY TO REACH AGREEMENT WHILE TAKING INTO CONSIDERATION IN SO DOING
THE NEED TO OBSERVE THE INTERESTS OF SECURITY OF THE SIDES AND OF
PRESERVING AND STRENGTHENING STRATEGIC STABILITY.

(MORE)

9 FEB 1425Z MEE

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(TEXT) WE PROPOSE, IN PARTICULAR, THAT A MUTUALLY ACCEPTABLE MANDATE SHOULD BE ADOPTED AS SOON AS POSSIBLE AT THE VIENNA MEETING, ON THE BASIS OF WHICH IT WOULD BE POSSIBLE TO BEGIN THE PREVIOUSLY MENTIONED NEGOTIATIONS.

THE STATE OF AFFAIRS IN REGARD TO BANNING CHEMICAL WEAPONS HAS RECENTLY BEEN GIVING RISE TO GROWING ANXIETY. I SHOULD LIKE TO SAY A FEW WORDS IN THIS CONNECTION, TOO. THE UNITED STATES, AND FRANCE AS WELL, HAVE SET IN MOTION A BRAKING MECHANISM ON THE WAY TO ADOPTING AN INTERNATIONAL AGREEMENT. WHERE IS THE UNITED STATES LEADING MATTERS? WASHINGTON'S POLICY ON THIS ISSUE IS HEADING PERCEPTIBLY TOWARDS A SHARP TURN AWAY FROM AN ACCORD. THE UNITED STATES STARTED PRODUCTION OF BINARY CHEMICAL WEAPONS AT THE MOMENT WHEN PERCEPTIBLE PROGRESS HAS BEEN MADE AT THE TALKS AIMING TOWARD AN URGENT CONCLUSION OF AN ALL-EMBRACING CONVENTION, AND WHEN THE ABSOLUTE MAJORITY OF STATES PARTICIPATING IN THE GENEVA DISARMAMENT CONFERENCE ARE VOTING IN FAVOR OF CONCLUDING SUCH A CONVENTION.

THE REFERENCES MADE BY OPPONENTS OF AN AGREEMENT TO THE SOVIET UNION'S SUPERIORITY IN CHEMICAL WEAPONS ARE PARADOXICAL, TO SAY THE LEAST. AND IF ANYONE REALLY DOES BELIEVE IN THIS, THEN WHY NOT OPT FOR CONCLUDING A CONVENTION, WHICH WOULD ELIMINATE ALL REAL AND ILLUSORY SO-CALLED SUPERIORITIES AND LAGS AND WOULD LEAD TO COMPLETE EQUALITY OF STATES ON THE BASIS OF A CHEMICAL ZERO.

I REPEAT: WE ARE IN FAVOR OF ELIMINATING CHEMICAL WEAPONS, AND THE SOONER THE BETTER.

IN CONCLUSION, I SHOULD LIKE TO STRESS THE FOLLOWING: THE TREATY ON MEDIUM- AND SHORTER-RANGE MISSILES IS NOT SIMPLY THE PRODUCT OF THE CORRECT AND TIMELY CATCHING OF THE RIGHT MOMENT FOR THE COINCIDING OF THE INTERESTS OF THE SOVIET UNION, THE UNITED STATES, AND OTHER STATES. IT IS NOT JUST THE RESULT OF THE PERSISTENCE AND DYNAMISM OF SOVIET FOREIGN POLICY AND DIPLOMACY. THE TREATY IS A TANGIBLE MANIFESTATION OF THE DEEP-SEATED PROCESSES CURRENTLY TAKING PLACE OF MANKIND'S RECOGNITION THAT ITS FATE IS NOT GUARANTEED. THIS IS THE FIRST ACT OF INSIGHT BY THOSE IN THE WEST WHO TOOK THE NUCLEAR FLARE OVER MIROSHIMA AS THE GUIDING STAR WHICH WAS TO LEAD THEM TO POSITIONS OF THE POLITICAL AND ECONOMIC RULERS OF THE WORLD. BY THE EFFORTS OF THE SOVIET UNION, THE OTHER SOCIALIST COUNTRIES, AND ALL PROGRESSIVE MANKIND, THIS WAS NOT DESTINED TO COME ABOUT. THE TREATY UNDER DISCUSSION TODAY IS IN THE FINAL RECKONING A REFLECTION AS IN CRYSTAL OF THE NEW THINKING, THE MOST IMPORTANT TENET OF WHICH IS TAKING MAXIMUM ACCOUNT OF THE MUTUAL INTERESTS OF STATES AND PEOPLES.

PERMIT ME TO EXPRESS THE HOPE THAT THE CONSIDERATION OF THE TREATY BY THE SOVIET PARLIAMENT, IN CONDITIONS OF GLASNOST, AND BY

WAY OF DEMOCRATIC DEBATE, WILL LEAD TO A RESPONSIBLE STATE DECISION FOR ITS RATIFICATION, GIVING IT THE FORCE OF LAW. AND THEN, AS MIKHAIL SERGEYEVICH SAID, THIS TREATY WILL BECOME A HISTORIC DATE IN THE ANNALS OF THE DESIRE OF PEOPLE FROM TIME

IMMEMORIAL FOR A WORLD WITHOUT WARS. THANK YOU. I THANK YOU FOR YOUR ATTENTION.

(LIGACHEV) ARE THERE ANY QUESTIONS FOR EDUARD AMVROSIYEVICH? PLEASE GO AHEAD.

(UNIDENTIFIED SPEAKER) EDUARD AMVROSIYEVICH, IN THE CAPITALS OF THE NATO COUNTRIES, JUDGING FROM REPORTS IN THE MEDIA, AN ACTIVE DEBATE IS GOING ON ABOUT THE QUESTION OF THE BUILDUP OF NUCLEAR WEAPONS NOT COVERED BY THE MEDIUM- AND SHORTER-RANGE MISSILE TREATY. THUS THE POSSIBILITY IS ARISING FOR THE CREATION OF ADDITIONAL NUCLEAR POTENTIAL BY WAY OF COMPENSATION FOR THE DISMANTLED CRUISE MISSILES, THOSE WHICH ARE TO BE DISMANTLED, THE CRUISE MISSILES AND THE PERSHINGES. DOES THE TREATY GIVE US ANY GUARANTEE AGAINST SUCH OUTFLANKING MANEUVERS?

(UNIDENTIFIED VOICE IN BACKGROUND) (WORDS INDISTINCT) ON BEHALF OF PUBLIC ORGANIZATIONS.

(SHEVARDNADZE) I SHALL TRY TO ANSWER THAT VERY BRIEFLY, BECAUSE IN MY INTRODUCTION, AND TO SOME EXTENT YEGOR KUZMICH SPOKE ABOUT IT TOO, I TRIED IN MY REPORT, SO TO SAY, TO SET OUT OUR POSITION. BUT I UNDERSTAND YOUR CONCERN. THERE IS INDEED A LOT BEING SAID JUST NOW ABOUT COMPENSATION, ABOUT CREATING MODERNIZATION, AND SO ON, AND THIS UNDOUBTEDLY DOES GIVE US SERIOUS CAUSE FOR CONCERN, AND IT GIVES OUR ALLIES CAUSE FOR CONCERN, TOO. I SAID IN MY SPEECH THAT IT IS NOW VERY IMPORTANT TO MAINTAIN DYNAMISM, NOT TO PERMIT SIGNIFICANT PAUSES IN PROBLEMS OF DISARMAMENT. IF SERIOUS INTERVALS WERE ALLOWED, QUITE UNEXPECTED DEVELOPMENTS OF EVENTS WOULD BE POSSIBLE. THEREFORE, THE TREATY ITSELF DOES NOT GIVE SUCH A GUARANTEE, BUT IT CREATES GOOD CONDITIONS TO ACHIEVE PROGRESS AND ACHIEVE THE REDUCTION OF WEAPONS IN OTHER FIELDS, TOO.

(LIGACHEV) ARE THERE PERHAPS ANY MORE QUESTIONS, COMRADES, PLEASE? IF THERE ARE NONE (?AND THEN THERE ARE SOME, GIVE THEM) IN WRITTEN FORM, PLEASE. CAN WE ACCEPT SUCH A PROCEDURE, COMRADES?

(UNIDENTIFIED SPEAKER) YES.

(ENDALL)

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WHILE EUROPEAN TERRITORY IN A FLIGHT TIME OF 0-10 MINUTES, WHICH
IN PRACTICAL TERMS MAKES IT VERY UNLIKELY THAT ANY ANTIRISSILE
DEFENSE WOULD WORK.

AT THE SAME TIME, THE TREATY ON THE ELIMINATION OF MEDIUM-RANGE
MISSILES GETS RID OF THE ILLUSIONS OF SOME WESTERN LEADERS WHO HAVE
ENTERTAINED THE HOPE OF REMOVING FROM A WAR, OR OF INFLECTING
DEFEAT IN WAR ON, THE EUROPEAN PART OF THE SOVIET UNION WITH THE
HELP OF THESE MISSILES AND THUS ACHIEVING SUCCESSES IN SOME LIMITED
WAR.

THE SECOND CIRCUMSTANCE CONSISTS IN THE FACT THAT OUR MISSILES,
WHILE COUNTERBALANCING U.S. NUCLEAR FORWARD-BASED SYSTEMS, AND
BRITISH AND FRENCH MISSILES, DID NOT DISTURB THE MILITARY BALANCE
IN EUROPE. IN SPITE OF THAT, THE UNITED STATES AND NATO STARTED
DEPLOYING PERSHING-2'S ON THE PROTEST OF ARMS UPGRADING. IF THE
SOLUTION OF REDUCING ALL THE MISSILES TO ZERO HAD NOT BEEN FOUND,
THE UNITED STATES WOULD HAVE STARTED CATCHING UP WITH US, THEN WOULD
HAVE OVERTAKEN US; WE WOULD HAVE HAD TO CATCH UP WITH THE UNITED
STATES, AND THUS THE SPIRAL OF THE ARMS RACE COULD HAVE TURNED AS
INFINITUM. THEREFORE, IT WAS THE MOST REASONABLE THING TO OPT
FOR COMPLETE ELIMINATION OF BOTH U.S. AND SOVIET MEDIUM- AND
SHORTER-RANGE MISSILES.

CONSEQUENTLY, THE POINT IS NOT IN THE FIGURES ALONE--ALTHOUGH
THEY HAVE CONSIDERABLE IMPORTANCE--OR IN WHO HAS WON OR LOST,
BOTH SIDES COMPROMISED WITH EACH OTHER. THE UNITED STATES, FOR
EXAMPLE, AGREED TO ELIMINATE U.S. NUCLEAR WARHEADS FOR THE WEST
GERMAN PERSHING-1A MISSILES IN THE FRG, RENOUNCED THE CONVERSION
OF GROUND-BASED CRUISE MISSILES INTO SEA-BASED ONES, AND
RENOUNCED DETERMINING THE RANGE OF BALLISTIC AND CRUISE MISSILES IN
FULL-SCALE TESTS INSTEAD OF THE COMPLEX TECHNICAL FORMULA THEY
SUGGESTED (AS HEARD). AS ADMIRAL SERGEYEVICH GORBAKHOV, GENERAL
SECRETARY OF THE CPSU CENTRAL COMMITTEE POINTED OUT, EACH SIDE

CONCEDED EXACTLY AS MUCH AS WAS NEEDED TO BALANCE THEIR
INTERESTS IN THE GIVEN SPECIFIC SPHERE. AS A RESULT, WE HAVE A
TREATY THAT'S BASED ON TAKING ACCOUNT OF MUTUAL INTERESTS. AND
THE FACT THAT REAL NUCLEAR DISARMAMENT HAS BEEN STARTED ON OUR
INITIATIVE IS, PRIMARILY, TO THE SOVIET UNION'S CREDIT AND A GREAT
POLITICAL AND MORAL GAIN WHICH HAS STRENGTHENED OUR INTERNATIONAL
PRESTIGE EVEN MORE.

I THINK IT NECESSARY TO STRESS YET ANOTHER CIRCUMSTANCE. THE
TREATY SUBMITTED FOR RATIFICATION IS A DOCUMENT WHICH WE HAVE
ANALYZED DEEPLY AND COMPREHENSIVELY; LITERALLY EACH OF ITS POINTS
HAS BEEN WEIGHED, IT IS NOT THE FRUIT OF ACTIVITY BY SOME
INDIVIDUALS BUT THE RESULT OF WORK BY WHOLE COLLECTIVES. ONE
COULD SAY WITHOUT EXAGGERATION THAT EACH WORD AND EACH FIGURE HAVE
BEEN EXAMINED AND CHECKED IN THE MOST THOROUGH MANNER.

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MOSCOW TELEVISION SERVICE IN RUSSIAN 0744 GMT 9 FEB 80
// (SPEECH BY NIKOLAI NIKOLAEVICH, CANDIDATE MEMBER OF THE CPSU CENTRAL
COMMITTEE POLITBUREO AND DEPUTY MINISTER OF DEFENSE, AT SESSION OF THE
COMMISSIONERS OF THE COUNCIL OF THE UNION AND COUNCIL
OF THE SOVIET UNION, HELD TO DISCUSS
RATIFICATION OF THE INF TREATY, IN THE KREMLIN HALL OF THE
COUNCIL OF NATIONALITIES--LIVE)

(TEXT) ESTEEMED COMRADE DEPUTIES! ESTEEMED GUESTS! THE
TREATY PRESENTED FOR DISCUSSION BETWEEN THE SOVIET UNION AND THE
UNITED STATES ON THE ELIMINATION OF MEDIUM- AND SHORTER-RANGE MISSILE
IS

IS THE FIRST REAL STEP ALONG THE PATH OF IMPLEMENTING THE COURSE
CONFIRMED BY THE 27TH CPSU CONGRESS FOR THE FULL ELIMINATION
OF NUCLEAR AND OTHER FORMS OF WEAPONS OF MASS DESTRUCTION.
IT ENVISAGES THE DESTRUCTION OF TWO CLASSES OF U.S. AND SOVIET
MISSILES. AT THE SAME TIME, THE SIDES PLEDGE NOT TO PRODUCE ANY
FURTHER AIRBORNE-BASED BALLISTIC OR CRUISE MISSILES WITH A RANGE OF
500-5,500 KM AND NOT TO CARRY OUT FLIGHT TESTS ON THEM. THUS,
A PRACTICAL START HAS BEEN MADE ON BUILDING A WORLD WITHOUT NUCLEAR
WEAPONS.

ALLOW ME, COMRADE DEPUTIES, TO GIVE AN ASSESSMENT OF THE TREATY
FROM THE POSITION OF ITS EFFECT ON ENSURING THE RELIABLE DEFENSE
OF THE SOVIET UNION AND OTHER SOCIALIST STATES. THIS IS ESPECIALLY

IMPORTANT BECAUSE OF THE FACT THAT LETTERS FROM THE SOVIET PEOPLE
ARE REACHING THE MINISTRY OF DEFENSE WHICH EXPRESS CONCERN EITHER
DIRECTLY OR INDIRECTLY: WILL HARM NOT BE DONE TO THE SECURITY OF
THE SOVIET UNION AND THE COUNTRIES OF THE SOCIALIST COMMUNITY
THROUGH THE DESTRUCTION OF A SOMEWHAT GREATER QUANTITY OF MISSILES
THAN ARE TO BE DESTROYED BY THE UNITED STATES? IF ONE CONSIDERS THE

TREATY SOLELY FROM THE POINT OF VIEW OF THE NUMBER OF MISSILES
LIABLE TO BE DESTROYED THEN WE SHALL INDEED HAVE TO DESTROY TWICE
AS MANY MISSILES. HOWEVER, THIS IS NOT A QUESTION OF ARITHMETIC.
WHEN ASSESSING THE TREATY, APART FROM THE FIGURES, IT IS ALSO
NECESSARY TO TAKE OTHER CIRCUMSTANCES INTO ACCOUNT--POLITICAL,
MILITARY, MORAL, AND PSYCHOLOGICAL.

FROM THE MILITARY POINT OF VIEW, THE FIRST SUCH CIRCUMSTANCE
IS THAT THE UNITED STATES IS ELIMINATING IN EUROPE ITS
MEDIUM-RANGE MISSILES WHICH, IN RELATION TO THE SOVIET UNION, ARE
STRATEGIC MISSILES TO ALL INTENTS AND PURPOSES. THEY CAN REACH THE

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WE WILL EXERT EVERY EFFORT TO MAKE THE MILITARY ALLIANCE OF
THE SOCIALIST COUNTRIES, THE WARSAW PACT ORGANIZATION, EVEN MORE
POWERFUL AND TO MAKE THE JOINT DEFENSE OF THE SOCIALIST STATES
EVEN STRONGER.

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PAGE 2 OF 5--HSCOM TV: YAZOV ADDRESS ON INF RATIFICATION
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(TEXT) QUESTIONS RELATING TO OUR OUR SECURITY WERE, OF COURSE, AT THE BASIS OF THIS GREAT DEAL OF WORK THEY WERE IN THE FOREFRONT. WOULD THE ELIMINATION OF MEDIUM- AND SHORTER-RANGE MISSILES NOT AFFECT OUR SECURITY? IN THE NUCLEAR SPACE AGE, WHEN THE SIDES ALREADY HAVE UP TO SEVERAL THOUSAND NUCLEAR WEAPONS WHICH, IF PUT INTO OPERATION, WOULD THE THREAT OF A UNIVERSAL CATASTROPHE, SECURITY CANNOT INDUBitably BE BASED ONLY ON INCREASING NUCLEAR WEAPONS, ON FEAR OF RETIBUTION.

IN CONNECTION WITH THIS, THE USSR MINISTRY OF DEFENSE CONSIDERS THAT ELIMINATION OF MEDIUM- AND SHORTER-RANGE MISSILES, AS AN IMPORTANT FRONTIER IN INTERNATIONAL DEVELOPMENT, WILL MAKE IT POSSIBLE TO REDUCE THE LEVEL OF THE MILITARY THREAT AND TENSION AND, CONSEQUENTLY, TO ENHANCE THE SECURITY OF THE SOCIALIST STATES.

THE SOVIET UNION IS FIRMLY INTENT UPON FURTHER REALISTIC ACCORD

ON DISARMAMENT ISSUES. BUT, LIKE EVERY OTHER COUNTRY, WE NATURALLY HAVE A HEAVILY RESPONSIBLE CONCERN FOR OUR OWN SECURITY. TO THE CPSU CENTRAL COMMITTEE AND THE CENTRAL COMMITTEE PORTFOLIO DEVOTE UNWITTINGLY ATTENTION TO THE DEFENSE CAPABILITY OF OUR HOMELAND AND THE FIGHTING STRENGTH OF THE SOVIET ARMED FORCES. THE SOVIET ARMY AND NAVY HAVE AT THEIR DISPOSAL MODERN WEAPONS AND EQUIPMENT, WELL-TRAINED PERSONNEL, AND COMMANO AND POLITICAL CADRES, THAT ARE TRAINED AND DEVOTED SELFLESSLY TO THE PEOPLE. IT SHOULD BE UNDERSTOOD THAT MEDIUM- AND SHORTER-RANGE MISSILES ARE NOT THE ONLY THINGS THAT GUARANTEE THE DEFENSE CAPABILITY OF OUR HOMELAND AND ITS ALLIES: THERE ARE OTHER MILITARY MEANS, TOO, WHICH RELIABLY ENSURE OUR DEFENSE.

I CAN FIRMLY ASSERT THAT WITH THE TREATY'S ENTRY INTO FORCE, THE DEFENSE CAPABILITY OF THE SOVIET UNION WILL BE AT A LEVEL SUCH AS TO ENABLE THE PEACEFUL LABOUR OF THE SOVIET PEOPLE TO BE RELIABLY DEFENDED.

A QUANTITATIVE ARMS REDUCTION WILL UNDOUBTEDLY REQUIRE US TO UNDERTAKE THE NECESSARY MEASURES TO IMPROVE OUR ARMED FORCES. BUT WE HAVE NO INTENTION OF COMPETING WITH THE WEST IN THE CREATION (ACQUISITION) OF SPECIFIC TYPES OF WEAPONS. WE ARE SELECTING THOSE MEASURES WHICH WILL ENSURE THE SECURITY OF THE SOVIET UNION AND ITS ALLIES. WE ARE DEVOTING A GREAT DEAL OF ATTENTION TO ENHANCING THE TROOPS' COMBAT EFFECTIVENESS AND TO PERFECTING THEIR MANAGEMENT.

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SIDE OF INSPECTIONS ON OUR TERRITORY, IN ORDER TO GUARANTEE
UNFAILING, PRECISE, AND PROMPT FULFILLMENT OF THE OBLIGATIONS LAID
UPON THE PARTY RECEIVING THE INSPECTION IN ACCORDANCE WITH
THE TREATY.

A CONSIDERABLE AMOUNT OF WORK ALSO LIES AHEAD IN ACHIEVING THE
ELIMINATION OF THE MISSILES AND THE EQUIPMENT AND INSTALLATIONS
CONNECTED WITH THEM. THIS TASK FACES PRIMARILY ON THE MINISTRY
OF DEFENSE. WE CAN REPORT TO YOU, ESTEEMED COMRADES, THAT THE
PREPARATORY WORK ON IMPLEMENTATION OF THE TASKS IMPOSED ON THE
MINISTRY OF DEFENSE IS BEING CONDUCTED VIGOROUSLY AND WILL BE
COMPLETED BY THE SET DEADLINE.

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TABLE 3 OF 5--MOSCOW TV: YAZOV ADDRESS ON INF RATIFICATION

LD001357

((TEXT)) COMRADE DEPUTIES! IN STUDYING THE TREATY SUBMITTED FOR
YOUR EXAMINATION, YOU COULD NOT FAIL TO NOTICE WHAT A MAJOR ROLE
IS ALLOCATED IN IT TO MATTERS OF GUARANTEEING RELIABLE MONITORING
((BOUTROUL)) OF FULFILLMENT BY BOTH PARTIES OF THE OBLIGATIONS
ADOPTED. WE ATTACH IMPORTANT SIGNIFICANCE TO THIS PROBLEM,
BECAUSE ATTEMPTS HAVE BEEN MADE, AND ARE BEING MADE, ON THE PART
OF THE UNITED STATES TO CIRCUMVENT THE PROVISIONS OF PREVIOUSLY
CONCLUDED SOVIET-U.S. ACCORDS IN ARMED LIMITATION. PROVISIONS ARE
LAID DOWN IN THE TREATY ON THE BROAD UTILIZATION OF VARIOUS
KINDS OF ON-SITE INSPECTIONS. IT CAN BE SAID THAT THERE IS
PROVISION FOR A GRADED PACKAGE OF INSPECTIONS, ENCOMPASSING
ALL STAGES OF IMPLEMENTING THE TREATY, VERIFICATION ((PROVERBAI))
OF INITIAL DATA ON EXISTING WEAPONS, OBSERVATION OF THE PROCESS
OF ELIMINATION AND THE REMAINING SYSTEMS WHICH HAVE STILL NOT
BEEN DISMANTLED, AND CHECKING THAT THERE SHOULD BE NO PRODUCTION
OF WEAPONS ENCOMPASSED BY THE TREATY. THE INSPECTION MEASURES
WHICH ARE PROVIDED FOR, IN CONJUNCTION WITH NATIONAL TECHNICAL
MEANS OF VERIFICATION ((BOUTROUL)), ALLOW BOTH US AND THE AMERICANS
TO BE ASSURED OF THE RELIABILITY OF COMPLIANCE WITH THE TREATY.
THE EXPERIENCE OF ELABORATING MEASURES AND METHODS OF
VERIFICATION ((BOUTROUL)) FOR MEDIUM- AND SHORTER-RANGE
MISSILES IS UNIQUE, BUT IT CAN ALSO BE USED IN OTHER SOVIET-U.S.
ARMED LIMITATION AGREEMENTS. IN CONNECTION WITH THE FACT THAT WE
HAVE RATHER MORE MISSILES SUBJECT TO ELIMINATION, THE AMERICANS
WILL CARRY OUT A CORRESPONDINGLY GREATER NUMBER OF INSPECTIONS.
WE ARE CURRENTLY CONDUCTING PREPARATIONS FOR CARRYING OUT
INSPECTIONS AT U.S. FACILITIES AND THE FACILITIES IN THIRD COUNTRIES
CONNECTED WITH U.S. MEDIUM- AND SHORTER-RANGE MISSILES.

SUCH INSPECTIONS WILL ALLOW US TO CONFIRM OURSELVES OF THE
AUTHENTICITY OF THEIR INFORMATION, AND OF COMPLIANCE WITH THE
PROVISIONS OF THE TREATY BY THE U.S. SIDE. THE INSPECTIONS
PROVIDED FOR BY THE TREATY HAVE SERIOUS DEMANDS ON THE CORRESPONDING
MILITARY ORGANIZATIONS AND FACTORIES MANUFACTURING MISSILES.
THEIR TASK IS ONCE AGAIN TO THINK THROUGH AND IMPLEMENT THE WHOLE
PACKAGE OF MEASURES CONNECTED WITH IMPLEMENTATION BY THE U.S.

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YET AGAIN THAT THE MOST REACTIONARY FORCES OF IMPERIALISM ARE NOT RELINQUISHING ATTEMPTS TO TRY TO ACHIEVE MILITARY SUPERIORITY FOR THEIR OWN BENEFIT AND TO KEEP THE WORLD IN A STATE OF CONSTANT TENSION. HOWEVER, IT IS TIME THAT THOSE WHO DETERMINE SUCH A POLICY OF THE NATO BLOC POWDER THE FUTILITY OF ATTEMPTS TO ACHIEVE MILITARY SUPERIORITY OVER THE WARSAW PACT ORGANIZATION.

THE ALLIED SOCIALIST COUNTRIES THEMSELVES ARE NOT STRIVING TO ACHIEVE MILITARY SUPERIORITY, BUT NOW WILL THEY ACCEPT THAT ANYONE ELSE HAS SUCH A RIGHT. WE FUNDAMENTALLY REJECT THE POLICY OF MILITARY SUPERIORITY. THIS HAS BEEN FREQUENTLY STATED BY THE LEADERS OF OUR FRATERNAL SOCIALIST STATES AND BY OUR SOVIET GOVERNMENT.

COMRADE DEPUTIES! THE SOVIET ARMED FORCES WHOLLY AND FULLY APPROVE OF THE ACCORD REACHED AT SUMMIT LEVEL IN WASHINGTON. WE ARE CONVINCED THAT STEPS MUST CONTINUE TO BE TAKEN TO REDUCE THE LEVEL OF MILITARY CONFRONTATION, TAKING INTO ACCOUNT THE GUARANTEEING OF MUTUAL AND EQUAL SECURITY OF THE SIDES AT ALL STAGES OF DISARMAMENT. FOR THIS REASON WE SUPPORT THE EFFORTS OF THE CPSU CENTRAL COMMITTEE AND OF THE SOVIET GOVERNMENT TO ACHIEVE ACCORD ON THE PROBLEM OF MAJOR 50-PERCENT REDUCTIONS IN STRATEGIC OFFENSIVE WEAPONS, IN CONDITIONS WHERE THE ABW TREATY IS OBSERVED IN THE FORM IN WHICH IT WAS ADOPTED IN 1972, AND ALSO ON OTHER AREAS IN THE FIELD OF DISARMAMENT.

IN OUR EVALUATION, THE BRINGING INTO FORCE OF THE TREATY BETWEEN THE USSR AND THE UNITED STATES ON ELIMINATION OF THEIR MEDIUM AND SHORTER-RANGE MISSILES IS IN ACCORDANCE WITH THE MILITARY-POLITICAL SITUATION AND WITH THE INTERESTS OF THE SOVIET UNION AND OF THE WARSAW PACT PARTICIPANT STATES. IN CONNECTION WITH THIS, I CONSIDER THAT THE ABOVE TREATY MAY BE RATIFIED BY THE USSR SUPREME SOVIET PRESIDIUM.

*THANK YOU FOR YOUR ATTENTION.
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TABLE 4 OF S-PROSCOM TV: YAZOV ADDRESS ON INF RATIFICATION

LO091430

(TEXT) THE NECESSARY INSTRUCTIONS HAVE BEEN ISSUED TO THE TROOPS. ALL THE MEASURES FOR PREPARING AND IMPLEMENTING THE PROVISIONS OF THE TREATY HAVE BEEN PUT UNDER SUPERVISION. MEASURES ARE BEING TAKEN TO ORGANIZE CLOSE COOPERATION WITH LOCAL SOVIET AND PARTY BODIES AND ALSO WITH OTHER MINISTRIES AND DEPARTMENTS.

I WOULD LIKE TO STRESS IN PARTICULAR THAT IT IS INTENDED AS MUCH AS POSSIBLE TO ASSIGN FOR USE IN THE NATIONAL ECONOMY THE EQUIPMENT REMAINING AFTER THE IMPLEMENTATION OF THE PROCEDURE OF ELIMINATION ENVISAGED BY THE TREATY. AS IS WELL KNOWN, THE TREATY ENVISAGES THE ELIMINATION OF THE WARHEADS OF MISSILES AND NON-NUCLEAR WARHEAD DEVICES. IN THIS THE WARHEADS ARE EITHER CRUSHED OR FLATTENED AND THE NUCLEAR EXPLOSIVE SUBSTANCE CAN BE USED EITHER IN THE NATIONAL ECONOMY OR FOR OTHER PURPOSES AT THE DISCRETION OF THE CONTRACTING PARTY.

AS IS KNOWN, THE CPSU CENTRAL COMMITTEE, BY AGREEMENT WITH THE LEADERSHIP OF THE GDR AND CSSR, ADOPTED THE DECISION, WITHOUT WAITING FOR THE TREATY TO BE RATIFIED, TO REMOVE FROM THE TERRITORIES OF THOSE COUNTRIES THE SOVIET OPERATIONAL-TACTICAL MISSILES STATIONED (RAZMESHCENNI) THERE IN RESPONSE TO THE DEPLOYMENT OF U.S. MEDIUM-RANGE MISSILES IN WESTERN EUROPE. I REPORT THAT THE NECESSARY WORK IS BEING DONE TO IMPLEMENT THIS DECISION AND THEY, THESE MISSILES, WILL BE WITHDRAWN WITHIN THE ESTABLISHED TIME LIMITS. AS A WHOLE, COMRADE DEPUTIES, THE USSR MINISTRY OF DEFENCE IS READY TO FULFIL EXACTLY ON SCHEDULE ALL THE REQUIREMENTS DICTATED BY THE PROVISIONS OF THE TREATY.

WHAT IS CAUSING A CERTAIN AMOUNT OF CONCERN IS THE FACT THAT, APPARENTLY, THE PROSPECTS OF THE ELIMINATION OF SOVIET AND U.S. MISSILES IN EUROPE HAVE NOT BEEN TO THE LIKING OF CERTAIN NATO FIGURES.

THEY ARE CONCERNED FOR THE PROSPECTS OF THE DEPLOYMENT OF NEW MISSILES ON THE TERRITORY OF EUROPE, AND THEY ARE OPPOSING IT, AND WOULD A GERMANY, POLAND, CZECHOSLOVAKIA, AND OTHER COUNTRIES. ALL THESE MEASURES ARE DESIGNED TO



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the table. Immediately to Korniyenko's left is Sergey Fedorovich Akhromeyev, marshal of the Soviet Union and chief of the General Staff of the USSR Armed Forces, then Medvedev, an unidentified man, and Yu. M. Vorontsov, USSR first deputy minister of foreign affairs. About 12 other unidentified people are seated in two's and three's along one side of the main table. Akhromeyev uses a wall chart to illustrate his points]

[Begin recording] [Korniyenko] Does the treaty correspond fully with the interests of the security of our state, bearing in mind that the USSR is destroying a larger number of missiles than the United States and that there is alarm that the USSR has agreed not to take the British and French missiles into account. I would like, in addition to what has already been said and written, to hear some additional explanations, if there are any.

[Akhromeyev] The Soviet Union is indeed destroying a larger number of intermediate-range missiles than the United States. We are destroying 826 missiles; the United States is destroying 689 intermediate-range missiles. But at the same time, a portion of our missiles are old. If one takes modern missiles, then we are destroying 650 such missiles, and the United States 689.

Moreover, we bore in mind that the United States is eliminating their missiles which are deployed in Europe and can reach the territory of the Soviet Union. If one talks of shorter-range missiles, then we considered that they must be taken together with tactical nuclear weapons, too; we took into account the fact that both we and the opponent still have tactical nuclear weapons. And, to sum up, when we considered the correlation of forces we considered it possible to report to our leadership that it was possible to make such a reduction.

With regard to the British and French missiles, the governments of both Great Britain and France have categorically rejected the idea that those weapons should be a subject of the negotiations. We probably had to take account of the fact that they are independent states, but the correlation of nuclear forces was indeed unequal here. Nevertheless, we believe that they will become the object of negotiations on reductions in future stages.

We agreed to eliminate a certain number of intermediate- and shorter-range missiles in the east. Mikhail Sergeyevich said in his statement to the newspaper MERDEKA that the Soviet Union is prepared to assume the commitment not to increase its nuclear weapons in the Asian region in the future if such a commitment is undertaken by the U.S. side.

[Vorontsov] In the course of work on the treaty, the Soviet leadership came to the conclusion that arithmetical calculations of the correlation of weapons in terms of each type were not the only things to be taken into account. It was necessary to give the whole cause of

Preparatory Commission Debates INF Treaty LD200424 Moscow Television Service in Russian 2105 GMT 19 Feb 88

["Report on a Session of the Preparatory Commission, the Working Body of the Foreign Affairs Commissions of the Chambers of the USSR Supreme Soviet" special program]

[Text] The Soviet-U.S. Treaty on the Elimination of Intermediate- and Shorter-Range Missiles was discussed at a session in the Kremlin today. The majority of Soviet people are in favor of ratification of the treaty; but letters are also coming in, which, in addition to support for the treaty, express some concern and request explanations of some issues related to it. [video shows a meeting room where the commission members are seated on both sides of a long table, with Georgiy Markovich Korniyenko, chairman of the Preparatory Commission, at the head of

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nuclear disarmament a decisive push forward, and to take the first step towards this end—the first step which is always the most difficult one.

We made certain concessions, concessions in the interests of reason. The U.S. side also made certain concessions. On this basis alone, on the basis of thorough consideration of the interests of each side, was it possible to draw up this genuinely historic document.

[Akhromeyev] I indeed agree, for I am again arguing as a military man. The United States' missiles were capable of reaching the territory of the Soviet Union. The missiles which we are now eliminating were not able to reach the territory of the United States. We military specialists had to bear that in mind when we reported our ideas to the leadership. I believe that we had to. Accordingly, it was possible to go so far as to eliminate a somewhat greater number of our missiles than they did, since such a situation had taken shape. We consider that we were able to go that far.

[Korniyenko] Do our experts have any other opinions or remarks on this range of issues? Carry on, please, Yevgeniy Vladimirovich.

[Yevgeniy Vladimirovich Bugrov, doctor of economics] I would like to point out that the signing of this treaty marks the commencement of the program of total elimination of nuclear weapons throughout the world by the end of the current century. But at the same time, this treaty begins a process which might be described as disarmament for the sake of development.

One can already say in regard to this treaty, certain human resources as well as that of technical and financial resources are being freed for new production activity.

[S.Ye. Savitskaya, USSR pilot-cosmonaut, representing the Soviet Peace Fund] The implementation of the treaty will release certain human resources. In connection with this the question arises: What social consequences of the implementation of the treaty are expected?

[V.M. Mishin, AUCCTU secretary] The trade unions are also concerned by this problem, and are working on it, and we shall do everything we can to insure that no social tensions arise among those who are today working at these enterprises. [end recording]

The participants in the discussion noted that the total elimination of intermediate- and shorter-range missiles will undoubtedly reduce the danger of a nuclear war arising. But the question remains: Will damage not be inflicted on the treaty by the so-called compensation measures of NATO? Have each side's obligations not to undertake any actions which contradict the treaty been reflected clearly enough in the treaty, and in particular in Article 14 of it?

[Begin recording] [Vorontsov] In our view, all the plans which are presently being discussed in the United States and in certain Western European countries concerning compensation are indeed blasphemous plans. To try to compensate for this breakthrough with something else means trying to close the very important process which has begun, to turn it back.

[Korniyenko] To sum this part up in a few words, the treaty, both in letter—I am thinking of Article 14—and in its overall spirit is, of course, an obstacle on the path of these plans. It is well-known to us that several interpretations have already emerged in discussion of the treaty in Senate commissions, as have certain calls to somehow supplement the treaty with some interpretations or other. What opinions are there on this score?

[Vorontsov] I would like to say that in the hearings in the Foreign Affairs Committee of the U.S. Senate, individual voices have been heard calling, for example, for amendments to the treaty that would permit the possession of ground-based cruise missiles with conventional equipment, and not nuclear. Such calls are, of course, of an undermining nature for the treaty. They bear witness to an attempt to create a loophole in the treaty which would make it possible to build up weapons instead of reducing and totally eliminating them.

[Major General V.I. Medvedev] During the discussions, attempts are being made by certain U.S. representatives to catch us looking for some loopholes or other. In particular, the question was posed about us allegedly having incorrectly indicated the number of RSD-10 intermediate-range missiles. A clear explanation was given in response to this yesterday on behalf of the Ministry of Defense.

[Korniyenko] Gennikh Aleksandrovich Trofimenko, go on, please.

[G.A. Trofimenko, deputy director of the USA and Canada Institute] Of course, the treaty does not provide any loopholes for evasion of it, and so on. But the Americans, the realistically-minded senators, I would say, taking into account what has been done by the U.S. Administration with the ABM Treaty, are now trying to exclude the possibility that what has happened to the ABM Treaty will be repeated. That is: There is a single interpretation of the treaty, which will now be registered in the course of the hearings. In my view, it must be said that this is a positive phenomenon.

[M.E. Vartanyan, representing the Soviet Committee of Physicians for the Prevention of Nuclear War] We physicians are greatly troubled by the question of whether the possibility of an attack using conventional weapons on atomic power stations is being examined within the framework of your talks. Can any sort of guarantee be worked out?

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[Charikov] The session of the commission lasted more than 2 hours, but, of course, not all questions arising in connection with the first treaty on the destruction of a whole class of nuclear missile weaponry were raised and discussed exhaustively. The chairman said that the commission would continue its work before drawing up and submitting its recommendations and proposals.

After the session closed, I talked with Academician Sagdeyev, a member of the commission, a deputy to the Soviet of the Union and director of the Institute of Space Research of the USSR Academy of Sciences. This is what he said about ratification of the treaty:

[Begin recording] [Sagdeyev] I think that the treaty should definitely be ratified. The only questions that could be raised are questions of just how honestly the opposite side will approach this treaty, and I think that we will see this in the process of ratification over there, in their process of more detailed analysis of the debates that have already started on the issue of so-called compensation, modernization and so on.

[Charikov] That is what was talked about today in the session of the commission?

[Sagdeyev] Yes, definitely.

[Charikov] Thank you. [end recording]

You have been listening to a report on the session of the Preparatory Commission, the working body of the Foreign Affairs Commissions of the chambers of the USSR Supreme Soviet, in connection with consideration of the ratification of the Soviet-U.S. treaty on intermediate- and shorter-range missiles.

Akhromeyev, Vorontsov Comment
LD192054 Moscow TASS in English 2012
GMT 19 Feb 88

[Text] Moscow February 18 TASS—Does the Soviet-U.S. Treaty on Eliminating Intermediate-Range and Shorter-Range Missiles fully meet the security interests of our state? Doesn't the circumstance that our country scraps more missiles than the United States infringe upon these interests?

These and other issues pertaining to the ratification of the treaty signed in Washington last December were central to the participants in today's session of the Preparatory Commission, a working body of the Foreign Affairs Commissions of the chambers of the USSR Supreme Soviet, which was set up to study in detail the INF Treaty.

Opening the session, Georgiy Korniyenko, chairman of the commission, said: Judging by the mail of the Supreme Soviet, other departments, by Soviet citizens' responses in the national press, the overwhelming majority of Soviet people favour the ratification of the treaty.

Letters are also coming in, in which a certain concern is expressed along with the support of the treaty, requests are made to clarify some of the issues related to it.

Answering these questions, Sergey Akhromeyev, head of the General Staff of the USSR Armed Forces, emphasized that the elimination of intermediate-range and shorter-range missiles did not violate in any way our country's defence interests. The Soviet Union really destroys a larger number of missiles—826 intermediate-range missiles as compared with 689 missiles of the United States. If one is to take such modern missiles, we destroy 650 and the United States the same 689. As for shorter-range missiles, the decision on them was considered and became possible with account of the correlation of all types of tactical weapons. One should also take into consideration the point that Americans destroy missiles which are deployed in Europe and are capable of reaching fast Soviet territory.

Sergey Akhromeyev drew attention to the position of Britain and France, which invariably rejected the idea of taking account of their nuclear forces, emphasizing that they supposedly do not take part in bilateral Soviet-U.S. negotiations and their potential is incomparable with the nuclear might of the USSR and the United States. It is important to understand the simple truth, the chief of the General Staff of the USSR Armed Forces noted. If the Soviet Union's leadership did not venture to take a bold and compromise step, removing from the agenda at the current stage the issue of British and French nuclear forces, there would be no historic accord. And, nonetheless, we are justified in hoping that Britain and France, whose systems are part of the NATO arsenal, will join the subsequent stages of nuclear disarmament.

The military aspects of scrapping intermediate-range and shorter-range missiles in the east cannot be viewed outside the general political context, Sergey Akhromeyev said. The situation in the Asia-Pacific region, specifically in the Far East, is known to have changed for the better in recent years. We took this into consideration. Besides, the USSR expressed readiness to commit itself not to build up nuclear forces in that region if the United States also takes the similar step according to our information, Americans did not increase its nuclear potential in the Asia-Pacific region close to the USSR's borders in recent time—prior to the signing of the treaty and following its signing.

On the whole, it appears to be indisputable that total destruction of two classes of Soviet and U.S. intermediate-range and shorter-range missiles will lessen the danger of a nuclear war breaking out and, hence, will strengthen both states' security and thus international security, participants in the session noted. Consequently, irrespective of particulars, it is possible to speak even in purely hypothetical terms only about whether the treaty will enhance the sides' security in an equal measure rather than whether it damages the USSR's security.

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Yuliy Vorontsov, first deputy foreign minister of the USSR, noted that the INF Treaty was one of the first really tangible results of the new political thinking. We agreed to concessions in the interests of reason, there were definite concessions also from the U.S. side. We have never come so closely to the destruction of the whole class of nuclear weapons throughout the past decade.

Yes, the total destruction of intermediate-range and shorter-range missiles undoubtedly scales down the danger of a nuclear war breaking out, parliamentarians said. But the question remains: Do NATO "compensatory" measures not damage the treaty?

Our experience of conducting Soviet-U.S. negotiations on disarmament confirms that it is essential to trust but also to verify. It is necessary that a definite barrier be put so that the commitments assumed by the United States are not violated by any actions outside the framework of this treaty. Article 14 of the treaty, which was initiated by the USSR, is just meant to give such guarantees.

The Soviet side waged a heavy fight for the inclusion of this article in the treaty up to the most recent days. What we observe in the West now around the issue of the so-called compensations only confirms our foresight of the need to include in the treaty clear-cut guarantees which are contained in the afore-mentioned article, Yuliy Vorontsov noted.

Noting the importance of the treaty as the first step towards implementing the programme for building a nuclear-free world, advanced by Mikhail Gorbachev in January, 1986, participants in the session underscored the need to give fresh impetus to the efforts to attain within the shortest possible time its near-term goals—a drastic reduction in strategic offensive armaments given scrupulous compliance with the ABM Treaty, and a comprehensive ban on nuclear testing.

LETTER FROM VICTOR M. SIDEL, M.D., TO SENATOR PELL

PHYSICIANS
FOR SOCIAL
RESPONSIBILITY

The U.S. Affiliate of International
Physicians for the Prevention of Nuclear War
Recipient of the 1985 NOBEL PEACE PRIZE

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March 1, 1988

The Honorable Claiborne Pell
Senate Foreign Relations Committee
United States Senate
Washington D.C. 20510

Dear Senator Pell:

The members and supporters of PSR appeal to the Senate Foreign Relations Committee to give unequivocal support to the Intermediate-Range Nuclear Forces (INF) Treaty as signed. Damaging changes to the INF Treaty could prevent an agreement reducing strategic nuclear arsenals, and undermine the improved, business-like relations that have characterized recent U.S.-Soviet dialogue. The INF Treaty would enhance Western security interests in the following ways:

o Increased Verification Possibilities. The on-site inspection and data-sharing provisions of the Treaty provide necessary precedents for future weapons cuts. Of equal importance is the actual elimination of weapons under the new verification regime, a first in superpower arms accords.

o Enhanced Credibility. The acceptance by the U.S. of an agreement it originally proposed in 1981 sends a clear message of consistency and competence to our allies and the Soviet Union.

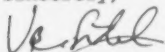
o Asymmetrical Reductions. Future reductions in conventional and nuclear arms in Europe are considered to be feasible now that the Soviet Union has accepted the unequal reductions agreed to in the INF Treaty.

The INF Treaty enjoys overwhelming public support. But the public's increasing awareness of broader national security concerns including the economy, the environment, and terrorism is even more important. U.S. failure to carry through with the implementation of the INF Treaty as signed would be contrary to those interests, leaving our nation with fewer resources to address these pressing problems.

Physicians For Social Responsibility has been working more than a quarter of a century to prevent nuclear war. Our 60,000 members and supporters know that the INF Treaty is an important first step in this direction because it paves the way for future meaningful agreements that would end the nuclear arms race.

Early and unequivocal support of the INF Treaty by the Senate would underscore the importance of this agreement for future accords.

Sincerely,



Victor W. Sidel, M.D.
President

Enclosures

The New York Times

SATURDAY, DECEMBER 12, 1987

It's Second Down And 48,000 to Go

By H. Jack Geiger

REPEATEDLY in months to come, while the Senate is debating the treaty on eliminating intermediate-range nuclear forces, we will hear the numbers repeated: 1,563 Soviet nuclear warheads and 436 American nuclear warheads eliminated.

Just numbers in an inventory. Four decades of life in a nuclear age have numbed us to their real meaning. But as physicians, my colleagues and I see these figures differently. In those bland, neutral numbers, we see blast and burns and radiation, cities incinerated, lands laid waste.

What do those numbers really mean? In our reckoning, they mean the United States and the Soviet Union together will take away the capacity to create roughly 32,000 Hiroshimas — enough to turn all the cities of Europe, East and West, into charred rubble. The total of 378 megatons in the Soviet I.N.F. arsenal have a destructive power equivalent to 29,112 Hiroshima bombs. The American warheads total 40 megatons, equal to 3,083 Hiroshima bombs.

What could those weapons have done? It would take 25 megatons to destroy the 10 largest cities in West Germany and kill most of their 9.5 million inhabitants. The radioactive fallout would be lethal to millions more in an area of 7,500 square miles. Only 23 megatons would obliterate most of Britain's population. Half of our Pershing missiles, properly aimed, could have destroyed the

urban populations of East Germany, Poland and the western Soviet Union.

In one study of such a so-called limited nuclear war in Europe, Henry Kendall, a physicist at the Massachusetts Institute of Technology, tallied enough destructive power to destroy East and West Germany, Britain, Italy, Belgium and the Netherlands. At the end, there would still be I.N.F. weapons left over. "The attack," Mr. Kendall wrote, "would run out of victims and targets."

All in all, the I.N.F. treaty removes weapons with a combined capacity to kill more than 300 million people. That is the number — lives, not bombs — that we should remember.

And yet all those lives are still at risk. For, even if the I.N.F. agreement is carried out, Europe will still be studded with nuclear weapons — in long-range aircraft, artillery shells, land mines, depth charges, submarines and naval vessels. Looming behind them are the fearsome intercontinental strategic ballistic missiles and warheads of the superpowers, with vastly greater destructive capacity, to bring the world's total to 50,000 nuclear weapons.

The I.N.F. treaty is a beginning. But if negotiating an end to the nuclear threat to our planet were envisioned as a kind of global football game, we'd have to call this "second down and 48,000 to go." That is the task President Reagan and General Secretary Mikhail S. Gorbachev face as they address the task of deep cuts in the remaining arsenals.

Only a few years ago, we were talking of a "window of vulnerability." We have now, in the I.N.F. treaty and the new direction it represents, a window of opportunity, measured in lives that were — and are — vulnerable to nuclear destruction, lives that we now have the opportunity to save from an unimaginable threat. □

H. Jack Geiger is immediate past president of the Physicians for Social Responsibility.



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Editorials

Arms treaty just a start

By VICTOR W. SIDEL, MD
President

Physicians for Social Responsibility

When the curtain rises tomorrow on a summit meeting between President Reagan and Soviet leader Mikhail Gorbachev, the superpowers will sign an Intermediate Nuclear Forces (INF) Treaty that, for the first time since the nuclear arms race began in earnest, will actually lead to the dismantling of nuclear weapons rather than just setting limits on the rate of growth of nuclear arsenals.

Those of us who prefer negotiation to confrontation (and possible annihilation) take hope from these signs of a new policy direction. But we know that if the INF Treaty is to contribute to our security in any real sense, it must be followed by other acts in the arms reduction drama.

The removal of INF missiles from Europe addresses just one manifestation of the arms race. The remaining manifestations must be addressed promptly before they destroy us. The two sides have already discussed 50 percent reductions in their long-range, "strategic" nuclear arsenals. These reductions would be an important step toward reducing the threat of nuclear annihilation.

Strategic nuclear weapons reductions are now being discussed in the context of negotiations on space-based "Star Wars" weapons. Star Wars makes any real reductions in strategic nuclear arsenals next to impossible because, as Star Wars anti-ballistic missile systems are developed, more and more long-range ballistic missiles will be produced to overwhelm them. In other words, Star Wars is a manifestation of the arms race that prevents the treatment of all of its other manifestations.

Nuclear testing also must be stopped if serious arms reductions are to occur. Nuclear testing is the very foundation of the arms race. New increasingly dangerous weapons, including Star Wars weapons, require testing before they can be deployed. A mutual test ban is now clearly verifiable. But those who still seek a military solution to the political East-West dispute, consistently oppose a test

ban, because it would mean an end to the development of first-strike weapons like the MC and Trident D-5 missiles.

Many Pentagon hard-liners and Congressional critics of arms control have given their blessing to the INF Treaty. The reason is not hard to find. They hope the agreement on European nuclear weapons will be the end of the arms control process — something to enhance the fading public image of the Reagan Administration while leaving plenty of room for nuclear testing and new growth in nuclear and conventional arsenals.

How does the INF scenario play itself out for those who find security only in weapons? Already administration and Pentagon officials are sending out signals that the U.S. and NATO will have to "fill in the gap" allegedly caused by the INF Treaty. We will have to deploy new nuclear and non-nuclear systems in and around Europe, so the argument goes, to make up for the loss of deterrence. This ignores the fact that, under the treaty, the Soviets will be dismantling four nuclear warheads for every one we dismantle, and that NATO still maintains substantial nuclear forces on weapons systems not covered by the agreement.

Sadly, the same people who have been fighting nuclear arms control for years are lending their support to the INF Treaty in the hope that it will appease the public appetite for diplomacy. Rather than viewing the agreement as an opening act, they want to ensure that it becomes the grand finale in the arms reduction drama. What they have in mind is the script for a tragedy.

While the ratification debate, therefore, will focus on technical issues of verification, equitable reductions and the consequences for European security, the real question is "Where do we go from here?" As one of 30,000 American doctors — members of Physicians for Social Responsibility — who have been pressing the Reagan Administration for meaningful nuclear arms reductions, I see the INF Treaty as an opening act which should be followed, for a start, by 50 percent reductions in strategic weapons, negotiated limits on space-based weapons, and a mutual freeze on nuclear testing.

Even if the nuclear arms reduction drama unfolds as I've recommended, there will still be many acts to follow before the world is truly free of the nuclear threat. Let's hope the American people have learned enough about the consequences of nuclear war and the dangers of the nuclear arms race to not settle for just one act.

EDITOR'S NOTE: Dr. Sidel is president of Physicians for Social Responsibility and Distinguished University Professor of Social Medicine at Montefiore Medical Center and the Albert Einstein College of Medicine in New York. PSR is the U.S. affiliate of International Physicians for the Prevention of Nuclear War, which was awarded the 1986 Nobel Peace Prize.

ARTICLE XIV STATEMENT

Article XIV reads as follows:

"The Parties shall comply with this Treaty and shall not assume any international obligations or undertakings which would conflict with its provisions."

A review of the negotiating background provides a comprehensive response to the meaning of Article XIV and to the 28 questions the Committee has raised about it.

The Soviets sought up until the final days of the negotiations to insert into the Treaty language which they hoped could serve as either a brake on U.S.-NATO cooperation or at least as a basis for public accusations that we were not in compliance with the Treaty. The United States resisted that effort. Our success can be measured by comparing the positions of the sides during the negotiations with the final result.

First, a look at the relevant articles in the SALT II treaty is in order since these formed the basis of the Soviet position.

Article XII states: "In order to ensure the viability and effectiveness of this Treaty, each Party undertakes not to circumvent the provisions of this Treaty, through any other state or states, or in any other manner."

Article XIII states: "Each Party undertakes not to assume any international obligations which would conflict with this Treaty."

There can be no doubt that in comparing Article XIV of the INF Treaty with these two articles of the SALT II Treaty, the language of SALT II Article XII is totally absent from Article XIV of the INF Treaty. Thus, it cannot be argued that what was covered by Article XII of SALT II--non-circumvention through any other state or states, or in any other manner--is covered by Article XIV of the INF Treaty which is clearly more closely allied to Article XIII of the SALT II Treaty. Moreover, it equally follows that Article XII and Article XIII of the SALT II treaty could not mean the same thing. Finally, when the Soviets sought wrongly to argue that U.S. deployments of Pershing and GLCMs were in violation of the SALT II Treaty, it was Article XII they cited, not Article XIII.

The Soviet position in the INF talks went even beyond the broad language of Article XII of SALT II. It provided that each party undertake not to circumvent the provisions of the Treaty in any manner and specified this included a prohibition on the transfer of intermediate-range missiles, launchers, components of such missiles or technical documentation related to such missiles or launchers. In a separate paragraph the Soviets repeated the language of SALT II, Article XIII.

The United States strongly opposed the non-circumvention language as totally unacceptable because of its negative effects on United States cooperation with third countries. As for the second paragraph, we noted it was a statement of international law and thus unnecessary. The Soviets insisted upon the need for the non-circumvention language. As for Paragraph 2, they said in effect that it was a restatement of and fully consistent with international law but argued it would be useful to restate that law in the treaty proper.

The United States firmly resisted the Soviet approach and in time the Soviets dropped the specific prohibitions against transfer of missiles, launchers, components and related technical documentation. However, they continued to demand general non-circumvention language close to Article XII of SALT II and language parallel with Article XIII of SALT II. We continued to oppose the non-circumvention language, but suggested that if the Soviets dropped it, as well as language they were seeking in another article calling for follow-on negotiations, we could accept language (which was essentially a restatement of the pacta sunt servanda principle of international law) similar to that of Article XIII of SALT II.

The Soviets made some further modification in their approach, dropping the words "not to circumvent" but continuing to include language to the effect that the parties would not take any action through any state or states or otherwise which would conflict with the treaty. We objected to the language as too general and designed to provide a basis for seeking to interfere with our cooperation with our NATO Allies, including in the area of modernization of forces. There was no doubt in our minds or that of the Soviets as to just what was at stake here.

In the end, the Soviets agreed to drop all reference to non-circumvention or to other states. They sought to expand the language concerning the requirement that the parties comply with the Treaty and not undertake obligations contrary to the

provision to include "actions" or "activities." We objected that "actions" or "activities" was too vague and suggested "undertakings" in the sense of a formal act. In the end the Soviets accepted "undertaking" in English. Their last ditch effort to provide a Russian translation of that word akin to "actions" or "activities" was turned aside in one of the final moves of the negotiations. The Soviets accepted a Russian word for "undertaking" which has the sense of a formal commitment, not an "action" or an "activity."

There can be no doubt that the Soviet effort to incorporate language in the INF Treaty which would have served as a brake on our cooperation with our NATO or other Allies or as a basis for public accusations of U.S. non-compliance, failed. The language of Article XIV and the negotiating record support the conclusion that this article, as finally agreed, does not in any way constitute a non-circumvention provision, nor impose any additional obligations on the parties, nor interfere with any existing program of cooperation with our Allies, nor interfere with any provision by the United States to its Allies of any items not limited by the Treaty.

What is left in Article XIV is a restatement of international law. It says we must comply with the Treaty and not assume any new obligations or undertakings that conflict with its provisions. This is well-known language. Similar language appears not only in Article XIII of SALT II, but also in Article X of the ABM Treaty and Article VIII of the North Atlantic Treaty.

LETTER NO. 1 FROM ARTHUR B. CULVAHOUSE, JR.

THE WHITE HOUSE
WASHINGTON

March 17, 1988

Dear Senator Lugar:

This letter responds to your letter to Howard Baker of March 9, 1988. The Administration has reviewed the attached March 2 draft of a proposed Senate resolution of advice and consent to the ratification of the INF Treaty.

For the reasons discussed below, the Administration believes that sections 1 and 2 of the Resolution (hereinafter these sections are referred to as the "Resolution") are seriously flawed. The Resolution would change the legal rules of treaty interpretation. It would impose an unconstitutional mechanism for the alteration of a treaty interpretation. Moreover, it would greatly increase the risk of inflexible distinctions between the meaning of a treaty for purposes of international law and its meaning for purposes of domestic law -- distinctions that could operate to the disadvantage of the United States.

Therefore, we believe the Resolution is not in the best interests of the United States.

Changing the Rules of Treaty Interpretation

We agree that the Executive is, as a matter of domestic law, required to adhere to the interpretation of a treaty authoritatively shared with, and clearly intended, generally understood and relied upon by, the Senate at the time of its advice and consent to ratification. The Resolution, however, would purport to expand the Executive's obligation beyond this settled principle. Sections 1(b) and 2 of the Resolution apparently would define that shared understanding as encompassing all statements made by officials of the Executive branch during ratification proceedings. These statements presumably include and attribute equal dignity to the Secretary of State's definitive article-by-article analysis and to the extensive testimony of Cabinet Members, treaty negotiators and other Executive branch officials, as well as to the Administration's answers to over 1,000 questions submitted by Members of the Senate, no matter how trivial or how unimportant the issue addressed may be to the Senate's advice and consent deliberations.

This overly broad standard is inconsistent with the principles governing judicial interpretation of treaties as a matter of domestic law. Such a general statement would not in our view provide the guidance required for the President or a court to give meaning to the INF Treaty.

Section 1 of the Resolution focuses solely on the role that Executive representations play in the interpretation of treaties, but fails to acknowledge the most important interpretative tool -- the text of the treaty itself. Ignoring the text of the treaty is inconsistent with bedrock rules of treaty interpretation, which mandate that the text is the best evidence of the parties' intent. Although "authoritative representations" are among the tools for interpreting ambiguous provisions in a treaty under domestic law, the language of the treaty is the primary means by which a treaty is interpreted.

Unconstitutional Mechanism for Altering Treaty Interpretation

Section 1(c) of the Resolution would purport to grant the Senate a role in interpreting treaties not contemplated by the Constitution. Section 1(c) states that the "United States shall not agree to or adopt [a different] interpretation" of a treaty "without the approval of the Senate." This provision of the Resolution and the Section 1(b) incorporation by reference of all Executive statements as critical shared understandings purport to provide the Senate with an ongoing power to accept or reject subsequent Executive interpretations and implementations of the INF Treaty. A "reinterpretation," subject to Senate approval, seemingly would occur each time implementation of the treaty calls into question any Executive statement in the massive ratification record. This section, therefore, interferes with the President's constitutional responsibility to interpret and implement treaties and also constitutes an unprecedented arrogation of treaty power by the Senate.

The Constitution does not provide that treaties may be amended by the Senate and the Executive acting alone after ratification, nor does it permit unicameral "interpretive" legislation. The provisions in Sections 1(c) and 2 that contemplate such a process are not consistent with the Constitution.

Risk of Unilateral Restrictions on the United States

As noted above, when interpreting a treaty, one obviously looks first and foremost to the text of the treaty itself. In instances where the treaty text is not dispositive or is unclear, under international law one looks primarily to the negotiating record and the subsequent practice of the treaty parties. As a matter of domestic law, however, the President

is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification. This is true even if the treaty negotiating record and subsequent practice indicate an interpretation contrary to that shared understanding. Exchanges in Senate proceedings in connection with the ratification of a treaty cannot under international law alter the meaning of a treaty where they are not officially communicated to the other treaty party prior to the exchange of instruments of ratification. The result might be two INF treaties, one binding domestically against the President and a second one binding internationally between the United States and the Soviet Union. In our view, the Resolution would substantially increase this risk of a dichotomy between the interpretation of a treaty under international law and the interpretation to which the President constitutionally is bound under domestic law. While we have spared no effort to ensure that Administration statements reflect the correct interpretation of the INF Treaty, the magnitude of the record heightens the risk of divergence between our domestic and international legal obligations. Any such difference will favor the Soviet Union because the Soviet Union is not and cannot be bound by our domestic processes.

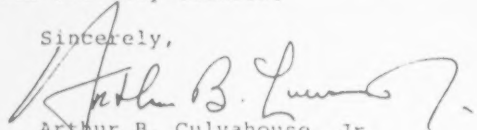
The principles of treaty interpretation stated herein in no way contradict the position previously taken by the Administration with respect to the ABM Treaty. The President is obligated to abide by a treaty interpretation clearly intended, generally understood and relied upon by the Senate, based on authoritative Executive Branch representations during its advice and consent to ratification. Our position in the ABM case is not that the President may disregard such clearly intended interpretations, but rather that the ABM Treaty ratification record does not establish as a matter of law that the Senate clearly intended that the restrictive interpretation be followed. Administration witnesses had presented inconsistent and ambiguous views on the reach of these provisions, and the Senate as a whole did not assert a view. The President, therefore, is legally entitled to interpret the ABM Treaty on the basis of materials other than the ratification record, including the negotiating history. As you know, we believe that the negotiating record shows that the Soviet Union did not agree to be bound to the restrictive interpretation.

This letter is presented in a spirit of cooperation and in the hope that the Senate and the Executive can agree that the INF Treaty should receive the advice and consent of the Senate without any conditions. We do not believe that it is necessary or desirable to address broad, free-standing

constitutional principles in a resolution of advice and consent. We believe that the proposed Resolution only serves the interests of confusion, ambiguity, confrontation and uncertainty. This Administration, of course, intends to consult closely with the Senate as the INF Treaty, upon ratification, is implemented and interpreted, and we will continue to embark upon such consultation in candor and good faith.

This letter also reflects the views of the legal offices of the Department of State, Department of Defense, the Office of Legal Counsel, Department of Justice, the Arms Control and Disarmament Agency, and National Security Council.

Sincerely,



Arthur B. Culvahouse, Jr.
Counsel to the President

The Honorable Richard D. Lugar
United States Senate
Washington, D.C. 20510

Attachment

LETTER NO. 2 FROM ARTHUR B. CULVAHOUSE, JR.

THE WHITE HOUSE

WASHINGTON

March 22, 1988

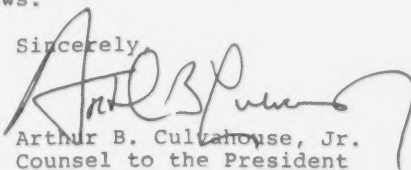
Dear Senator Lugar:

Discussions concerning my letter to you of March 17, 1988, have raised a question about the Secretary of State's identical letters of February 9, 1988, to Senators Byrd and Nunn. To clear up any misunderstanding that may exist, I should like to assure you that no inconsistency was intended or in fact exists between my letter and Secretary Shultz' letters. Whereas Secretary Shultz responded to the Senators' request for assurances regarding the "authoritativeness" of Executive branch testimony on the INF Treaty and the Senate's ability to rely on such testimony, my letter addressed a specific draft text setting forth what we believe to be unconstitutional and unworkable rules of treaty interpretation.

As the Secretary of State's February 9 letters pointed out: (1) all INF testimony of Executive branch witnesses, within their authorized scope, is authoritative; (2) Administration testimony and materials for the record can be regarded as authoritative without the need for the Senate to incorporate them in its Resolution of Advice and Consent; and (3) the Reagan Administration will in no way depart from the INF Treaty as we are presenting it to the Senate. Those letters remain an accurate statement of our policy and intention with respect to the INF Treaty.

My March 17 letter is consistent with Secretary Shultz' statement of Administration views.

Sincerely,



Arthur B. Culvahouse, Jr.
Counsel to the President

The Honorable Richard D. Lugar
United States Senate
Washington, D.C. 20510

LETTERS TO PRESIDENTS FORD, NIXON, AND CARTER
FROM SENATORS NUNN AND WARNER WITH RESPONSES

SAM NUNN, GEORGIA, CHAIRMAN

JOHN C. STENNIS, MISSISSIPPI
J. JAMES EXON, NEBRASKA
CARL LEVIN, MICHIGAN
EDWARD M. KENNEDY, MASSACHUSETTS
JEFF BINGAM, NEW MEXICO
ALAN J. Dixon, ILLINOIS
JOHN GLENN, OHIO
ALBERT GORE, JR., TENNESSEE
TIMOTHY E. WIRTH, COLORADO
RICHARD C. SHELBY, ALABAMA

JOHN W. WARNER, VIRGINIA
STROM THURMOND, SOUTH CAROLINA
GORDON J. HUMPHREY, NEW HAMPSHIRE
WILLIAM S. COHEN, MAINE
DAN QUAYLE, INDIANA
PETE WILSON, CALIFORNIA
PHIL GRAMM, TEXAS
STEVEN D. SYMMS, IDAHO
JOHN MCCAIN, ARIZONA

ARNOLD L. PUNARO, STAFF DIRECTOR
CARL M. SMITH, STAFF DIRECTOR FOR THE MINORITY

United States Senate

COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

February 10, 1988

The Honorable Gerald R. Ford
P. O. Box 927
Rancho Mirage, California 92270

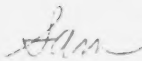
Dear Mr. President:

In carrying out the Senate's constitutional role to provide its advice and consent to the ratification of treaties, the Committees on Foreign Relations and Armed Services and the Select Committee on Intelligence have initiated extensive series of hearings on the Intermediate-range Nuclear Forces (INF) Treaty. With each Committee focusing on its distinct areas of responsibility, the hearings are complementary as will be the reports that the Committees are preparing for the Senate.

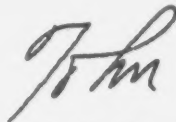
The Armed Services Committee hearings have focused on strategy and capabilities for NATO defense, with particular emphasis on the security implications of the INF Treaty. Within this broad context, the Committee has necessarily examined both nuclear and conventional force capabilities. The Committee's hearings will also include detailed consideration of the individual articles of the Treaty.

As a former President with vast experience in integrating arms control and U.S. national security strategy, you could significantly assist the Senate in its consideration of the INF Treaty. We would greatly value your written views, as broad and comprehensive as you desire, on the treaty itself and on the strategic framework in which any such arms control treaty should be considered. Any submission that you should decide to provide will, of course, be made an integral part of the record that the three Committees are making for the Senate.

Sincerely,



Sam Nunn
Chairman



John W. Warner
Ranking Minority Member

SAM NUNN, GEORGIA, CHAIRMAN
 JOHN C. STENNES, MISSISSIPPI
 J. JAMES EXON, NEBRASKA
 CARL LEVIN, MICHIGAN
 EDWARD M. KENNEDY, MASSACHUSETTS
 JEFF BRINGAMAN, NEW MEXICO
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 ARNOLD L. PUNARO, STAFF DIRECTOR
 CARL M. SMITH, STAFF DIRECTOR FOR THE MINORITY

United States Senate

COMMITTEE ON ARMED SERVICES
 WASHINGTON, DC 20510-6050

February 10, 1988

Honorable Richard M. Nixon
 Federal Building
 26 Federal Plaza
 New York, New York 10278

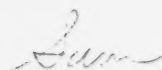
Dear Mr. President:

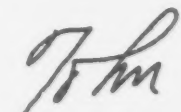
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Sincerely,


 Sam Nunn
 Chairman


 John W. Warner
 Ranking Minority Member

SAM NUNN, GEORGIA, CHAIRMAN

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JOHN MCCAIN, ARIZONA

ARNOLD I. PUNARO, STAFF DIRECTOR
CARL W. SMITH, STAFF DIRECTOR FOR THE MINORITY

United States Senate

COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

February 10, 1988

Honorable Jimmy Carter
The Richard B. Russell Building
75 Spring Street
Atlanta, Georgia 30303

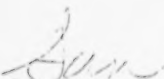
Dear Mr. President:

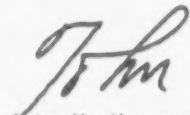
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Sincerely,


Sam Nunn
Chairman


John W. Warner
Ranking Minority Member

APPENDIX C

LETTERS FROM FORMER PRESIDENTS RICHARD NIXON, GERALD R. FORD, AND
JIMMY CARTER

RICHARD NIXON

February 11, 1988

26 FEDERAL PLAZA
NEW YORK CITY

Dear Sam and John,

As you requested, I have put my views about the proposed Intermediate-Range Nuclear Forces Treaty in writing in the event you believe they may be of interest to your colleagues on the Armed Services Committee.

While I was not a proponent of the zero-zero formula it embodies, I believe the treaty should be ratified by the Senate. Since U.S. INF forces were a key element in the seamless web of nuclear deterrence linking the defense of Western Europe and the United States, I would have preferred a treaty that permitted each side to retain equal INF forces, though at sharply reduced levels of deployment. I expressed these reservations in an article I coauthored with Henry Kissinger on April 26, 1987. We also said that if the Administration did move forward with the zero-zero formula in Europe, it should insist on expanding the formula worldwide, thereby eliminating the 100 Soviet missiles in Asia, and on linking the final phase of INF reductions to substantial progress on negotiations to eliminate Soviet conventional superiority in Europe. Our negotiators succeeded in winning concessions on the first issue but failed to obtain agreement on the second.

The Senate can express its concern on this and other issues by following the precedent of the Jackson Amendment to the proposed SALT I Treaty in 1972, which required future arms control agreements to be based on parity. But the Senate should not add amendments that would require renegotiation of the treaty, since such an action would have a disastrous impact on our European allies.

In considering the treaty, the Senate should

Hon. John Warner
 Hon. Sam Nunn
 February 11, 1988
 Page 2

bear in mind these caveats:

First, the NATO alliance must take actions to compensate for the treaty. This means both increasing our bomber forces stationed in Europe capable of reaching Soviet territory and also modernizing NATO's short-range nuclear forces. Eliminating Soviet superiority in conventional weapons should have priority over reductions in nuclear weapons. Any strategic arms reduction agreement should be expressly linked to an agreement reducing the Soviet superiority in conventional arms.

Second, the United States must not allow the INF treaty to usher in a false euphoria about a new dawn in U.S.-Soviet relations. Arms control agreements do not produce peace. Wars are caused not by the existence of arms but by the failure to resolve political differences which lead to their use. As long as Moscow continues its expansionist policies in Asia, Latin America, and Africa, we must continue to support policies that will enable us to deter and compete with the Kremlin even as we negotiate with its leaders.

Third, the United States must not make the mistake of believing that the INF verification provisions, which are more intrusive than those in any previous agreement, would be adequate for a START accord. While serious concerns have been expressed in the hearings about the possibility of Soviet cheating under the INF treaty, the strategic impact of such cheating, while important, would not be cataclysmic. But if the United States fails to insist on genuinely ironclad verification provisions in a START agreement, the survival of the West could be at risk.

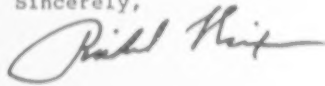
While the INF debate thus far has primarily centered on the issue of verification, that is not the central question in the START talks. We must keep in mind that the fact a bad agreement can be verified does not make it a good agreement. Our

Hon. John Warner
Hon. Sam Nunn
February 11, 1988
Page 3

goal in the START talks must be not only an accord that is verifiable but also one that eliminates the present Soviet advantage in counterforce weapons. None of the current Administration proposals that have surfaced in the media meet that test.

With warm regards,

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard H. Thompson". The signature is written in a cursive, flowing style with a prominent loop at the end.

Hon. John Warner
Hon. Sam Nunn



GERALD R. FORD

February 19, 1988

Dear Senators Nunn and Warner:

In response to your letter of February 10, 1988, on behalf of the United States Senate Committee on Armed Services, I am pleased to summarize my view on the Intermediate-range Nuclear Forces (INF) Treaty.

I support ratification of the Treaty by the United States Senate. However, it is essential that the members of the Senate are fully assured that the verification provisions are more than sufficient to provide the capability to detect any violations of the agreed terms. The U.S. must also have in being the technical capability of determining any such violations.

The Warsaw Pact conventional forces are generally recognized as superior to those of NATO. Without some modification in this current conventional arms relationship the four decades of peace in the European continent could be placed in jeopardy.

To remedy this imbalance between conventional forces of the Warsaw Pact and NATO I strongly recommend the following. The MBFR or other negotiations achieve an agreement that would reduce and equalize conventional forces on both sides. The MBFR negotiations in Vienna, which have gone on for about two decades, would be the best forum to correct the current Soviet/Warsaw Pact superiority.

However, If the MBFR or comparable negotiations are delayed or unsuccessful it is mandatory that NATO immediately implement actions that will sufficiently strengthen its conventional forces to offset Warsaw Pact superiority.

Most importantly, there should be no further reductions in European theatre nuclear weapons until the issue of balance in conventional arms is resolved.

Senators Sam Nunn and John W. Warner

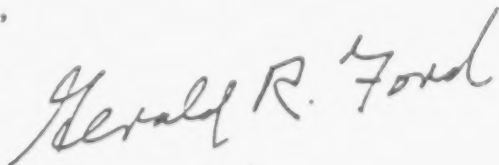
February 19, 1988

Page Two

Members of the U.S. Senate who vote for ratification of the INF Treaty must recognize their commitment to NATO's conventional arms improvements. It would be foolhardy to ratify an INF Treaty and not adequately achieve balance and strength in NATO's conventional capability. We must never forget NATO has been the military force in being that has maintained peace on the European continent for the longest period in the past 200 years.

If you and the other members of the Committee have further questions I will be glad to respond.

Sincerely,

A handwritten signature in dark ink, reading "Gerald R. Ford". The signature is written in a cursive style, with the first name "Gerald" and the last name "Ford" being more prominent than the middle initial "R.". The signature is positioned below the word "Sincerely,".

Senator Sam Nunn and
Senator John W. Warner
United States Senate
Committee on Armed Services
Washington, D. C. 20510-6050

JIMMY CARTER

March 3, 1988

To Senators Sam Nunn and John Warner

In response to your letter of February 10, let me outline briefly my opinion about the recently signed Intermediate-range Nuclear Forces (INF) Treaty. I should make it clear that I have not been briefed on the negotiations or the classified details of the agreement.

I understand that the Treaty requires the United States and the Soviet Union to eliminate all their intermediate-range and shorter-range missile systems within three years and bans them thereafter. It also requires the two sides to put into force measures to facilitate effective verification of the terms of the Treaty. A Memorandum of Understanding on Data provides for the exchange of information concerning numbers, characteristics, and locations of missiles on each side. An Inspection Protocol sets forth procedures for on-site inspections and monitoring of compliance with the agreements. A separate Protocol prescribes procedures for the elimination of missiles, launchers, and support facilities, but not warheads or guidance mechanisms. (I understand that the warheads from the 72 Pershing 1As will be destroyed at the end of the three year dismantlement period.) It is my presumption that the terms set forth in these four principal documents either have been or will be carried out honestly and thoroughly by both sides, and that the means to detect violations are adequate.

Since the Soviets will be required to destroy 680 launchers and the United States 364, this is a favorable numerical balance for our nation. At the same time, however, the Soviets have been successful in reducing a substantial threat to the western portion of their own homeland and we will have much less deterrent capability in Europe to discourage any possible intrusion by Warsaw Pact forces into NATO territory.

Page 2

I do not deplore this reduction in deterrent forces. In effect, the agreement is consistent with the decision made by NATO leaders in December 1979 to meet the Soviet SS-20 threat by deploying our own theater nuclear weapons. At that time, you will remember, the United States agreed to negotiate with the Soviet Union in order to eliminate these missiles on both sides. The deployment of Pershing missiles and ground launched cruise missiles has had the desired result.

There will now be some reduction in nuclear arsenals -- about three percent, I understand. If SALT II had been fully implemented, the Soviets would have had to dismantle about ten percent of their nuclear missiles, consisting primarily of older armaments. Any such reduction is at least symbolically important in that it sends a signal to anxious people around the world that the superpowers are serious in their efforts and can cooperate at least in a limited fashion in nuclear arms control. The INF Treaty does not make any significant change in the strategic military balance. One result is that the removal of intermediate-range and short-range missiles will highlight the Soviet advantage in conventional forces.

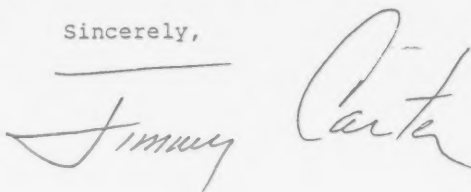
Treaty provisions governing communication and verification can enhance crisis stability through the use of nuclear risk reduction centers. Also, new on-site inspection rights during the next thirteen years can reduce tension between the United States and the Soviet Union by adding substantially to mutual understanding of procedures, policies, and attitudes. It remains to be seen whether ground inspections without aerial inspections will be adequate. (Future agreements involving conventional forces will almost certainly require aerial inspections.) Unnecessary delays in issuing visas, providing inadequate transportation, communication, and requested measurements and photographs, or otherwise inhibiting thorough on-site inspections could be a problem. Again, however, the acceptance of such inspections is a significant advance that bodes well for possible future agreements involving strategic nuclear weapons and conventional military forces.

Looking to the future, any further substantial reductions in nuclear forces should be tied to equalizing the conventional military balance in Europe, and special attention must be paid to the presence of the large Soviet land-based missiles that pose a major threat to strategic stability. In addition to reducing total nuclear arsenals, the warhead:launcher ratio needs to be lowered and remaining launchers should be deployed in relatively invulnerable sites to remove any possible advantage from a pre-emptive strike.

Page 3

In summary, my recommendation to the members of the U.S. Senate is that the INF Treaty be ratified despite its limitations. Rejection of the Treaty or substantive amendments or reservations that would require further negotiation would, at this time, be a serious blow to our nation's prestige and an almost insurmountable obstacle in pursuing more substantive agreements in the future.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink on a white background.

The Honorable Sam Nunn
The Honorable John Warner
United States Senate
Washington, D.C. 20510

PURSUANT TO A REQUEST BY THE CHAIRMAN, THE SECRETARY OF DEFENSE PROVIDED AN ANALYSIS OF THE AMERICAN ENTERPRISE INSTITUTE OCCASIONAL PAPER, "ARTICLE-BY-ARTICLE REVIEW OF THE INF TREATY." THE PAPER IS PRINTED IN VOLUME 3 OF THE COMMITTEE HEARINGS. THE SECRETARY'S RESPONSE FOLLOWS:

CLASSIFIED PORTIONS
HAVE BEEN DELETED



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

23 MAR 1988

Honorable Claiborne Pell
Chairman, Committee on Foreign Relations
United States Senate
Washington, DC 20510-6225

Dear Claiborne:

In your letter of February 4, you requested that the Department provide you an analysis of the principal criticisms of the INF Treaty contained in the American Enterprise Institute (AEI) Occasional Paper, "Article-by-Article Review of the INF Treaty". In my letter of February 12, I indicated that we were studying the AEI Paper and that we would provide you our views once our review was complete.

I am pleased to provide you our detailed analysis herewith, along with a few general comments.

The AEI Paper is a thoughtful commentary on the provisions of the INF Treaty. Indeed, the authors highlight several of the most important issues that arose during the negotiations, ones which were subject to extensive discussion and analysis by the Administration. As in any negotiation, we had difficult decisions to make, necessarily involving consideration of advantages and disadvantages of possible approaches to particular negotiating issues. On each of these important issues, the Administration carefully weighed relevant factors and reached a decision reflecting that considered assessment.

As we have testified before your committee, the INF Treaty is in the political and security interests of the United States. While the AEI Paper purports to raise a number of serious flaws in the INF Treaty -- and implicitly calls into question the benefits of the Treaty to the United States -- I am persuaded that the Treaty advances U.S. security interests in Europe, Asia and at home.

Concerning verification, I believe that our attached comments will show that the Treaty meets our requirements for effective verification. Contrary to the suggestions made in the AEI Paper, the Treaty requirement that all INF missiles, launchers, and specified support equipment and structures be eliminated, in

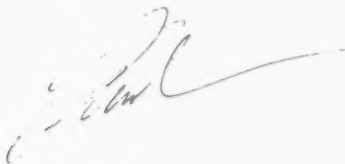
combination with the Treaty's extensive verification provisions and flight-test ban, will make it very difficult and costly for the Soviets to maintain a militarily significant INF capability -- or remain "close to" such a capability -- without the risk of detection by U.S. National Technical Means.

Finally, while the INF Treaty provides valuable verification precedents on which we will build in future arms control negotiations, we are not required to accept the same provisions in a START agreement. Indeed, a START Treaty which permits each side to retain indefinitely its strategic nuclear weapons will necessarily require additional and different verification provisions to meet the specific requirements of a START agreement.

In providing our comments, we followed the organization of the AEI Paper. Where the AEI Paper authors comment on a specific Treaty provision, we likewise offer our views on the issues cited. In an effort to be as responsive as possible, several of our replies contain classified information; this information is provided to the Senate on the same basis as earlier classified documents concerning the INF Treaty and the same security procedures shall apply.

If I can be of any further assistance in the Committee's consideration of the INF Treaty, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to be "J. Carter" or similar, written in a cursive style.

ARTICLE I

(U) We are confident that Treaty measures such as the data exchange, prohibitions on production and flight-testing of INF missile systems, and detailed inspection and elimination procedures, combined with U.S. intelligence capabilities, will make the INF Treaty effectively verifiable. In the pages that follow, we take up the specific comments raised by the AEI Paper authors.

ARTICLE II, PARAGRAPHS 1 & 2

(U) The USG decision to ban conventionally-armed GLCMs took into account a number of considerations. It is important to remember what the issue was not about. It was not about whether to permit planned U.S. deployments of conventionally-armed GLCMs nor was it about whether to withdraw from Europe previously deployed systems. Rather, the decision to be made was whether or not to protect the option for deploying conventionally-armed GLCMs. At the time of the decision, the U.S. and NATO did not -- and do not today -- have any specific plans or military requirements for conventionally-armed GLCMs.

(U) Moreover, the USG has fully protected its right to deploy INF range conventional air- and sea-launched cruise missiles. Such systems are not covered by the INF Treaty, and our position in START is firm that there shall be no limits on conventionally-armed cruise missiles. The INF Treaty also does not cover GLCMs with ranges below 500 kilometers.

(U) Allowing Soviet deployment of conventional GLCMs could have exacerbated the existing conventional imbalance (and added to Soviet ability to deliver chemical weapons), especially given the possibility that the Soviets would deploy these systems in far greater numbers than NATO. Any deployment by NATO of additional land-based intermediate-range missiles in Europe would, in the current political climate, be a complicated task.

(U) In addition to these reasons, we also had to consider the verification difficulties inherent in distinguishing between nuclear- and conventionally-armed GLCMs. The USG has been unable to develop -- and the Soviet Union has not put forth -- a regime to verify effectively the differences between the two types. Thus, by permitting Soviet conventionally-armed GLCMs, we would have to assume for military planning purposes that the entire force was capable of delivering nuclear weapons.

(U) By banning all GLCMs of INF range, and requiring the elimination of all existing INF GLCM missiles and launchers, we make covert Soviet deployment of INF-range GLCMs more difficult and costly. Moreover, without flight-testing, crew training and exercising of equipment, the operational capability of any covertly stored GLCMs would be seriously degraded over time. Conversely, the Soviet ability to maintain an operational nuclear GLCM capability under the guise of a permitted conventionally-armed GLCM program would be high and would provide the Soviets a ready means of breaking out from the Treaty.

(U) Thus, the decision to ban conventionally-armed GLCMs reflected a considered USG judgment based on a number of factors including a military analysis.

(U) The AEI Study assertion that the "verification benefit" has been "largely negated" by permitting drones and other non-weapon delivery vehicles of INF ranges (e.g., for reconnaissance) is not correct. Using a drone program as a cover for an illegal GLCM force would be difficult. Missile systems must be flight-tested for weapon delivery to ensure reliability. Moreover, to field an effective, offensive force, troops must train with the system and there must be an infrastructure to support deployments. All of these activities entail significant risks of detection by the United States. Unless the Soviets were willing to risk covert testing in a weapons delivery mode and deployment of a covert infrastructure for training, any covert attack capability of a drone force would be greatly limited.

(U) Finally, with regard to the hypersonic glide vehicle, any system which meets the definition of the Treaty, i.e., is a ground-launched ballistic or cruise missile, has been tested for weapons delivery and has a range between 500 and 5500 kilometers would be covered by the Treaty. Whether a system developed in the future would meet these criteria would be judged on a case-by-case basis.

ARTICLE II, PARAGRAPH 3

(U) With regard to the elimination versus modification of Soviet launchers, the procedures as outlined in the Treaty are designed to render the launchers unuseable, such that it would take longer to reconstitute them than to build them from scratch. The procedures will significantly alter the chassis so as to deny its use as a launcher without major reconstruction. The erector mechanisms for the declared launchers will be destroyed thus preventing the Soviets from simply reinstalling them on another launcher chassis. The elimination procedures will be observed through on-site inspection.

(U) However, it is important to remember that only the declared final assembly facility for the launcher is subject to on-site inspection. Facilities capable of producing the launcher chassis and other components and assembling them have no uniquely identifiable features. Thus, detection of production of new launchers will be difficult. Of course, over a period of time, our confidence in detecting clandestine production will increase if the Soviets attempt to field a militarily significant force that would require a large number of launchers.

ARTICLE II, PARAGRAPHS 5 & 6

(U) While it was relatively easy for the United States and the Soviet Union to agree which of their existing missile systems fell in the INF range (500-5500 kms), developing criteria to define a future missile's range -- and thus whether it would be prohibited by the INF Treaty -- was a vexing problem. On the one hand, we had

to develop as realistic a definition as possible that would prevent the development and deployment of INF missiles. On the other hand, the definition had to meet our verification requirements. We had to be confident that we could monitor the criteria we had established so as to have the best basis for challenges of future systems capabilities. Additionally, we sought a definition that would preclude inadvertent inclusion of systems intended for below 500 km use.

(U) For GLBMs, we agreed on maximum tested range for defining a future missile's range. A key advantage of tested range as a criterion is that we can monitor it confidently with National Technical Means. Moreover, we believe it unlikely that the Soviets would rely on a ballistic missile that had not been tested to near its operational range. The reentry conditions, acceleration profiles and the aerodynamic effects on a missile flown to under 500 kilometers are different from those of a missile flown to greater ranges, and the differences increase as the ranges become greater. Thus, testing a GLBM to significantly less than its operational range would reduce Soviet confidence in the system's ability to function as intended.

(U) For GLCMs, tested range was not adequate, since these systems could be tested to less than their operational range without seriously degrading confidence in their reliability at greater ranges. Hence, a range capability definition was negotiated based on the "standard design mode" and includes adjustments for any fuel reserves. We will monitor by National Technical Means flight tests of future Soviet GLCMs and extrapolate the range capability from observations of flight profile and assessments of such parameters as fuel capacity, payload weight, etc. This definition provides us a basis to challenge Soviet claims that a new GLCM is not capable of reaching INF range.

ARTICLE II, PARAGRAPH 8

(U) Definitions for deployed and nondeployed INF missiles are intended to facilitate verification by focusing on the location of a missile system. Strictly speaking, it does not reflect the operational status of these missiles. Naturally, for purposes of threat assessment we must assume that all mobile missile systems can be quickly placed on alert status. In the INF Treaty context, concerns over the number of deployed versus nondeployed missiles are ameliorated by the fact that the Treaty requires each Party to account for all INF missiles, whether deployed or non-deployed. Moreover, the Treaty further requires the elimination of all missiles within three years of entry into force of the agreement. Our START negotiators are well aware that INF Treaty terms are not necessarily appropriate for a START Treaty; they will not use INF Treaty terms if the terms are not suitable for the START context.

ARTICLE III

(U) The U.S. and the Soviet Union agreed to have both the SSC-X-4 and the Pershing IB be treated as systems "tested, but never deployed". This categorization is consistent with our own information on the Soviet SSC-X-4 cruise missile program and the information they provided to us.

(U) The assumption that paragraph 6 of Article X provides for different inspection provisions for the "never deployed" systems than for the "existing" systems is erroneous. The referenced paragraph states that the never deployed systems shall be eliminated within six months after entry into force. This is sooner than required for deployed systems. The elimination procedures for both "never deployed" and "existing" systems are to be in accordance with the procedures in the Protocol on Elimination. The specific elimination procedures for the SSC-X-4 are provided in Section II of the Protocol on Elimination, which is the same Section that covers elimination procedures for the "existing" systems.

ARTICLE IV, PARAGRAPH 1

(U) With regard to elimination versus modification of Soviet launchers, the procedures as outlined in the Treaty are designed to render the launchers unuseable, such that it would probably take longer to reconstitute them than to build them from scratch. The procedures will significantly alter the chassis so as to deny its use as a launcher without major reconstruction. The erector mechanisms for the declared launchers will be destroyed thus preventing the Soviets from simply reinstalling them on another launcher chassis. The elimination procedures will be observed through on-site inspection.

(U) However, it is important to remember that only the declared final assembly facility for the launcher is subject to on-site inspection. Facilities capable of producing the launcher chassis and other components and assembling them have no uniquely identifiable features. Thus, detection of production of new launchers will be difficult. Of course, over a period of time, our confidence in detecting clandestine production will increase if the Soviets attempt to field a militarily significant force that would require a large number of launchers.

(U) With respect to support structures that are not subject to elimination, the Intelligence Community has determined that these structures, i.e., multibay garages at regimental and division level facilities, are not capable of housing launchers with missiles without modification.

(U) Unique SS-20 single bay garages have to be destroyed; no such garages can be built.

(U) The AEI comment that the Soviets can remain rather close to a militarily significant INF capability without violating the Treaty is wrong. Among other things, the Treaty calls for the elimination of all INF missiles and launchers -- the heart of the INF force -- and a prohibition on flight-testing and production. Remaining elements of the INF infrastructure create no military capability without the missiles they support and the kind of activities needed to maintain long-term reliability of those missiles.

ARTICLE V, PARAGRAPH 1

(U) The Soviets are not required to dismantle the structures unique to shorter-range missiles. In the case of the SS-12, the structures are not required for launching or supporting the system. There are no structures unique to the SS-23 system. Bases at which shorter-range missiles have been located will be subject to short-notice inspection.

(U) Again, the AEI assertion that the Soviets can remain rather close to a militarily significant INF capability without violating the Treaty is wrong. Among other things, the Treaty calls for the elimination of all INF missiles and launchers -- the heart of the INF force -- and a prohibition on flight-testing and production. Remaining elements of the INF infrastructure create no military capability without the missiles they support and the kind of activities needed to maintain the reliability of those missiles.

ARTICLE VI, PARAGRAPH 1

(U) In response to the AEI concern of whether the Intelligence Community can monitor production and flight-testing of intermediate- and shorter-range INF missile systems, determination of production at facilities not previously associated with INF missiles would present a difficult task. However, our confidence in detection would increase if the Soviets produced enough weapons to field a militarily significant force.

(U) The Intelligence Community is confident that it would detect flight-testing of Treaty-limited weapon systems.

(U) With portal monitoring and related inspection procedures (such as random opening of SS-25 canisters) at the final assembly facility, Soviet attempts to use SS-25 production to mask SS-20 production at the monitored facility would be detected.

(U) Concerning the assertion that the Soviets will be able to obtain useful reliability information from the Treaty-allowed destruction launches and static fire burns, it is unlikely that the Soviets will learn much from additional launches that must be completed within a six-month time period. Only unencrypted telemetry for range safety purposes is allowed for launches to destruction and instrumentation is precluded for static firing. These measures, coupled with on-site inspection of elimination procedures will preclude the Soviets from obtaining reliability and test data from either launches or static firing. Moreover, static firing will not increase the Soviets' confidence in their weapon systems' total system performance.

ARTICLE VI, PARAGRAPH 2

(U) We do not believe there is a drafting error in this paragraph. The word "notwithstanding" simply indicates that paragraph two is related to the prohibition contained in paragraph one. We and the Soviets are in full agreement that this provision would prohibit them from building a second stage of the SS-25 which is "outwardly similar to, but not interchangeable with" the second stage of the SS-20. A stage which is outwardly similar to, and interchangeable with an SS-20 stage would be a violation of Article VI(1).

(U) Theoretically, the Soviets could covertly produce an illegal INF missile based on two stages of the SS-25. However, to field an operationally reliable and significant offensive force, additional factors must be taken into account -- including flight-testing of the missile, crew training, accuracy under field conditions and development of infrastructure to support deployments -- many of which would require the Soviets to take actions that would entail significant risks of detection by our National Technical Means. In addition, our permanent monitoring of the Soviet missile assembly plant, plus on-site inspection at SS-20 bases converted for SS-25 use and measures to enhance verification by NTM at all other SS-25 bases, would provide additional impediments to Soviet cheating.

ARTICLE VII, PARAGRAPHS 1 & 2

(U) Type rules are included in the INF Treaty to establish the commitment by the sides that once a missile system has been tested in a manner banned by the Treaty, all missiles of that type are banned, regardless of how they are tested or deployed. Thus, for example, if one missile is tested as a weapon delivery vehicle, then all such missiles will be counted as weapon delivery vehicles. Similarly, if a GLBM or GLCM is tested as an intermediate- or shorter-range missile, then all missiles with the same distinguishing characteristics are considered to be IRMs or SRMs.

(U) Under the INF Treaty, production and flight-testing of new INF missiles is prohibited. If the Soviets were to test or deploy a missile which they claimed was slightly modified but was indistinguishable from an existing INF missile, we would consider it a violation of the Treaty, even if it were only tested below 500 kms.

ARTICLE VII, PARAGRAPH 3

(U) Missiles designed for use in an ABM, ATBM or anti-air role could possibly be used in a surface-to-surface role with varying degrees of effectiveness. However, the accuracy of these missiles in that role would be limited. The Soviets would probably lack sufficient confidence in an ABM, ATBM or SAM system to deploy it widely in the surface-to-surface role without prior testing, which would likely be detected over time.

(U) It is important to remember that this provision was proposed by the U.S. in recognition of the intention of both sides to undertake research, testing and deployment of ABM, ATBM and anti-air missiles, and to recognize the fact that the INF Treaty is not designed to limit these systems.

ARTICLE VII, PARAGRAPH 4

(U) While it was relatively easy for the United States and the Soviet Union to agree which of their existing missile systems fell in the INF range (500-5500 kms), developing criteria to define a future missile's range -- and thus whether it would be prohibited by the INF Treaty -- was a vexing problem. On the one hand, we had to develop as realistic a definition as possible that would prevent the development and deployment of INF missiles. On the other hand, the definition had to meet our verification requirements. We had to be confident that we could monitor the criteria we had established so as to have the best basis for challenges of future systems capabilities. Additionally, we sought a definition that would preclude inadvertent inclusion of systems intended for below 500 km use.

(U) For GLBMs, we agreed on maximum tested range for defining a future missile's range. A key advantage of tested range as a criteria is that we can monitor it confidently with National Technical Means. Moreover, we believe it unlikely that the Soviets would rely on a ballistic missile which had not been tested to near its operational range. The reentry conditions, acceleration profiles and the aerodynamic effects on a missile flown to under 500 kilometers are different from those of a missile flown to greater ranges, and the differences increase as the ranges become greater. Thus, testing a GLBM to significantly less than its operational range would reduce Soviet confidence in the system's ability to function as intended.

(U) For GLCHMs, tested range was not adequate, since these systems could be tested to less than their operational range without seriously degrading confidence in their reliability at greater ranges. Hence, a range capability definition was negotiated based on the "standard design mode" and includes adjustments for any fuel reserves. We will monitor by National Technical Means flight tests of future Soviet GLCHMs and extrapolate the range capability from observations of flight profile and assessments of such parameters

as fuel capacity, payload weight, etc. This definition provides us a basis to challenge Soviet claims that a new GLCM is not capable of reaching INF range.

ARTICLE VII, PARAGRAPHS 7 & 8

(U) It is unlikely that the Soviets would attempt to deploy the SS-20 on SS-25 launchers without testing. Also, should an SS-25 launcher be used to launch an INF missile, it would become an INF launcher subject to elimination.

ARTICLE VII, PARAGRAPH 10

(U) Upon entry into force of the INF Treaty, neither side will be allowed to produce complete INF missiles or stages of such missiles. Production practices in connection with existing U.S. and Soviet INF missiles affect how these systems are accounted for in the Treaty and how continuous monitoring is applicable. The counting rule in Article VII(10) takes account of Soviet practices in cases where they do not store or move GLBMs as separate stages, but rather as a complete missile in its launch canister. The U.S., on the other hand, does move and store its INF GLBMs in separate stages; accordingly, the longest stage is counted as a complete missile.

(U) This counting rule, which is used in connection with continuous portal monitoring of production facilities, means that such monitoring is keyed to assembled missiles in canisters, in the case of U.S. monitoring of SS-25 production at current Soviet missile final assembly plant at Votkinsk, and to items as large or larger than the longest stage of the Pershing II at the former Pershing II rocket motor production facility at Magna, Utah.

(U) The rule is written in a general manner. Thus, if it were determined that Soviet practice in fact involved storing or moving their missiles as separate stages, the alternative counting rule would apply to Soviet missiles.

(U) Additional provisions and cooperative measures (including non-destructive imaging and random opening of canisters exiting Votkinsk) will help determine that INF-limited items are not leaving the facility under the guise of other, allowed missiles. The different inspection criteria at Votkinsk and Magna reflect different U.S. and Soviet production and operational practices. The impact of these criteria on ongoing rocket motor production at Magna will be minimal. At the same time, the inspection procedures at Votkinsk will help us deter Soviet cheating.

ARTICLE VIII, PARAGRAPHS 1, 2 & 3

(U) We have made it clear that there are some differences within the US Intelligence Community over estimated numbers of Soviet systems. It is not surprising that there are differences of opinion; they reflect independent analyses which add to the strength of our monitoring process. The Soviet numbers for deployed and non-deployed forces are, for the most part, near the estimates of our Intelligence Community, allowing for the range of our uncertainties. However, there are some differences in agency views on the number of non-deployed SS-20s. Estimates for non-deployed systems are, of course, inherently less certain. They vary by agency, reflecting the independent analyses noted above. There are 3 agency views. Two are close to the Soviet declared number. One is not.

(U) The capability of detecting covertly stored Treaty-limited weapon systems will depend on the scenario, including size of force, state of readiness, mode of operations, training requirements and a number of other factors. But the Treaty is designed to deal with possibilities such as the Soviets having more non-deployed SS-20s than we assess. Our National Technical Means can verify Soviet compliance with the Treaty's ban on INF flight testing, as well as with the Treaty's ban on INF infrastructure and activity. Testing, training and infrastructure are essential to a militarily effective force. Thus, unless the Soviets were willing to risk detection, the military effectiveness of concealed SS-20s would degrade over time.

ARTICLE VIII, PARAGRAPH 5

(U) There is no violation of Article VIII, paragraph 5 resulting from the Soviets maintaining or supporting INF equipment after 1 November 1987 at facilities not listed in the MOU. The facilities, missiles, launchers and support equipment listed as of 1 November 1987 simply establish the categories of data, including locations, as of that date. Not until the Treaty enters into force following its ratification by both parties are restrictions in effect on the location of Treaty-limited items. After that point, Treaty-

limited items can only be in notified transit or located at facilities which, with the exception of elimination facilities, are listed in the 1 November 1987 MOU on Data.

ARTICLE VIII, PARAGRAPH 6

(U) The word "locate" was chosen in order to have a general ban on all the activities of stationing, basing, deploying, storing, repairing, testing, etc. The Treaty text and the negotiating record are clear that IRMs, SRMs, stages and launchers of such missiles are not allowed at missile production facilities, launcher production facilities or test ranges beginning 30 days after entry into force of the INF Treaty.

ARTICLE VIII, PARAGRAPH 8

(U) This provision bans non-deployed IRMs or SRMs from being carried on their launchers except as required for maintenance conducted at repair facilities or for elimination by means of launching at elimination facilities. If a non-deployed INF missile on its launcher (i.e., one not located in a designated deployment area or at a missile operating base) is not at a repair or elimination-through-launch facility under these conditions, this would be a violation of the Treaty.

ARTICLE VIII, PARAGRAPH 9

(U) Training missiles which are not capable of operational launches are used by both sides. They are defined in the MOU as inert. Each side will demonstrate the difference between training missiles and real missiles in order to keep the inspectors from counting training missiles as real.

ARTICLE IX, PARAGRAPH 1

(U) We have made it clear that there are some differences within the US Intelligence Community over estimated numbers of Soviet systems. It is not surprising that there are differences of opinion; they reflect independent analyses which add to the strength of our monitoring process. The Soviet numbers for deployed and non-deployed forces are, for the most part, near the estimates of our Intelligence Community, allowing for the range of our uncertainties. However, there are some differences in agency views on the number of non-deployed SS-20s. Estimates for nondeployed systems are, of course, inherently less certain. They vary by agency, reflecting the independent analyses I mentioned. There are 3 agency views. Two are close to the Soviet declared number. One is not.

(U) The capability of detecting covertly stored Treaty-limited weapon systems will depend on the scenario, including size of force, state of readiness, mode of operations, training requirements and a number of other factors. But the Treaty is designed to deal with possibilities such as the Soviets having more non-deployed SS-20s than we assess. Our National Technical Means can verify Soviet compliance with the Treaty's ban on INF flight testing, as I have already noted, as well as with the Treaty's ban on INF infrastructure and activity. Testing, training and infrastructure are essential to a militarily effective force. Thus, unless the Soviets were willing to risk detection, the military effectiveness of concealed SS-20s would degrade over time.

ARTICLE IX, PARAGRAPH 3

(U) While an important verification provision of the Treaty is the establishment of agreed data categories of the MOU, each party certifies the accuracy of only its own MOU data. The U.S. is not faced with having "no effective recourse" to accepting data provided by the Soviets thirty days after Treaty entry into force. The U.S. may use a variety of means to question and seek clarifications and elaborations of data supplied by the Soviet Union, including normal diplomatic channels and the Special Verification Commission. The U.S. is also not limited to reliance upon Soviet-provided data in the event questions arise concerning elimination of Treaty-limited items. However, the Treaty's elimination procedures and related inspection provisions necessarily cannot apply until the Treaty enters into force.

(U) Note that missile support facilities and operating bases listed in the MOU and eliminated before entry into force of the INF Treaty would be subject to inspections by the express terms of Article XI, paragraphs 3 and 5(b).

ARTICLE IX, PARAGRAPH 5

(U) The purpose of missile transit notifications is to distinguish a legal missile in legitimate transit from a covert missile operating illegally. This determination will be made by comparing the Soviet transit notices with our own intelligence data.

(U) For a number of operational reasons, the United States decided to propose notification of transits 48 hours after completion. These reasons include operational security concerns as well as the logistics problems associated with transits, which could involve delays due to bad weather, etc. The post-transit notification, to include transit locations with associated times, provides data to assist in monitoring Soviet compliance with the Treaty.

ARTICLE X, PARAGRAPH 1

(U) There is no need for a change in the text to include "and stages of such missiles." The Treaty text and the negotiating record are clear that all INF missiles and stages of such missiles are to be eliminated. The Protocol on Elimination does not apply "only to the stages of full-up missiles" but to all missiles and stages of such missiles subject to the Treaty.

ARTICLE X, PARAGRAPH 5

(U) Concerning the assertion that the Soviets will be able to obtain useful reliability information from the Treaty-allowed destruction launches and static fire burns, it is unlikely that the Soviets will learn much from additional launches that must be completed within a six-month time period. Only unencrypted telemetry for range safety purposes is allowed for launches to destruction and instrumentation is precluded for static firing. These measures, coupled with on-site inspection of elimination procedures will preclude the Soviets from obtaining reliability and test data from either launches or static firing. Moreover, static firing will not increase the Soviets' confidence in their weapon systems' total system performance.

ARTICLE X, PARAGRAPH 6

(U) The assumption that paragraph 6 of Article X provides for different inspection provisions for the "never deployed" systems than for the "existing" systems is erroneous. The referenced paragraph states that the never deployed systems shall be eliminated within six months after entry into force. This is sooner than required for deployed systems. The elimination procedures for both "never deployed" and "existing" systems are to be in accordance with the procedures in the Protocol on Elimination. The specific elimination procedures for the SSC-X-4 are provided in Section II of the Protocol on Elimination, which is the same Section that covers elimination procedures for the "existing" systems.

ARTICLE X, PARAGRAPH 7

(U) The procedures set forth in the Protocol on Elimination are designed to preclude the possibility of restoring INF Treaty-limited items to serve as INF missile systems. Missiles and missile stages are eliminated by launching, burning, crushing, cutting, flattening, or destroying by explosion, and thus are completely destroyed. Launchers are eliminated so that they can no longer be used as missile launchers. The U.S. prime mover for GLCM and Pershing II launchers may be used as a tractor for non-Treaty limited items.

Likewise, Soviet launcher vehicles which do not have separable prime movers may, after elimination of those elements permitting them to launch missiles, still serve as tractors for non Treaty-limited items.

ARTICLE X, PARAGRAPH 8

(U) The INF Treaty provides for the right to conduct "baseline" inspections of all INF facilities (except missile production facilities) listed in the MOU as of 1 November 1987, regardless of whether they are included in the initial data update thirty days after entry into force. If the Soviets eliminate a facility prior to entry into force, the "baseline" inspection will serve as a "closeout" inspection also. Its purpose would be to confirm the absence of INF missiles, launchers, associated support equipment and structures and the cessation of INF at the facility.

(U) We consider the "closeout" or "baseline/closeout" inspection to be a critical element of our inspection regime required to ensure the effective verification of the INF Treaty.

ARTICLE X, PARAGRAPH 9

(U) Article X, paragraph 8 requires the elimination of all INF deployment areas, missile operating bases and missile support facilities. It further lists three conditions that must be met before a facility can be considered eliminated for the purposes of the Treaty. Conversion for use with systems not limited by the Treaty is not a substitute for elimination and the conditions listed above will still apply. However, the Treaty does not require that a base be eliminated before it can be converted to non-INF uses. Any such base would continue to be subject to inspection prior to and after conversion (and after its required elimination) for 13 years after entry into force of the Treaty.

ARTICLE XI, PARAGRAPH 3

(U) The INF Treaty provides for the right to conduct "baseline" inspections of all INF facilities (except missile production facilities) listed in the MOU, regardless of whether they are included in the initial data update thirty days after entry into force. If the Soviets eliminate a facility prior to entry into force, the "baseline" inspection will serve as a "closeout" inspection also. Its purpose would be to confirm the absence of INF missiles, launchers, associated support equipment and structures and the cessation of INF related activity at the facility.

ARTICLE XI, PARAGRAPH 5

(U) The AEI Study notes that the right to conduct short-notice on-site inspections at formerly declared facilities is provided for once the facilities have been "eliminated pursuant to paragraph 8 of Article X". The study then asks: If the Soviets are not obligated to follow agreed elimination procedures prior to entry into force, could the Soviets "eliminate" the facility using other procedures

and then argue that because the facility was not eliminated "pursuant to" Article X that there is no U.S. right to inspect those facilities as formerly declared facilities?

(U) No. The "baseline" inspection to which all facilities listed in the MOU (plus elimination facilities) are subject, will also serve as a "close-out" inspection for bases eliminated prior to entry into force. At that time, inspectors will determine whether the three conditions specified in Article X, paragraph 8 have been met: removal of INF missiles, launchers and support equipment; removal of INF support structures; and cessation of all INF activity. If these conditions have not been met to the satisfaction of the United States, the facility cannot be considered to be "eliminated" for the purposes of the Treaty and would be subject to continued on-site inspection as an active INF facility. Once satisfied at a "close out" inspection that the base meets the conditions established for elimination, then the base will become subject to on-site inspection as a formerly declared facility.

ARTICLE XI, PARAGRAPH 6

(U) Upon entry into force of the INF Treaty, neither side will be allowed to produce complete INF missiles or stages of such missiles. Production practices in connection with existing U.S. and Soviet INF missiles affect how these systems are accounted for in the Treaty and how continuous monitoring is applicable. The counting rule in Article VII(10) takes account of Soviet practices in cases where they do not store or move GLBMs as separate stages, but rather as a complete missile in its launch canister. The U.S., on the other hand, does move and store its INF GLBMs in separate stages; accordingly, the longest stage is counted as a complete missile.

(U) This counting rule, which is used in connection with continuous portal monitoring of production facilities, means that such monitoring is keyed to assembled missiles in canisters, in the case of U.S. monitoring of SS-25 production at current Soviet missile final assembly plant at Votkinsk, and to items as large or larger than the longest stage of the Pershing II at the former Pershing II rocket motor production facility at Magna, Utah.

(U) The rule is written in a general manner. Thus, if it were determined that Soviet practice in fact involved storing or moving their missiles as separate stages, the alternative counting rule would apply to Soviet missiles.

(U) Additional provisions and cooperative measures (including radiographic examination and random opening of canisters exiting Votkinsk) will ensure that INF-limited items are not exiting that facility under the guise of other, allowed missiles. The different inspection criteria at Votkinsk and Magna reflect different U.S. and Soviet production and operational practices. The impact of these criteria on ongoing rocket motor production at Magna will be minimal. At the same time, the inspection procedures at Votkinsk will help us to deter Soviet cheating.

ARTICLE XII, PARAGRAPH 2

(U) This paragraph provides an obligation on both sides regarding non-interference with National Technical Means of the other Party. It provides a separate basis for the obligation not to interfere with National Technical Means.

(U) Regarding concealment, the value of this provision is that it also establishes an obligation upon each Party to abstain from concealment measures which impede verification of compliance with the Treaty and that are not associated with normal training, maintenance and operations within deployment areas.

ARTICLE XII, PARAGRAPH 3

(U) The primary purpose of this provision is to help deter the Soviets from hiding deployed SS-20 missiles in the SS-25 single bay garages (fixed structures for launchers). Since within six hours of our request the roofs of such structures must be opened, the provision accomplishes its intended purpose. Any covert SS-20s deployed in the SS-25 single-bay garages would have to be moved for at least the six hour period the roofs must remain open and thus would likely be detected.

(U) The fixed structures for launchers were discussed extensively during the course of the negotiations. Versions of these single-bay garages are a standard feature of SS-20 and SS-25 operating facilities and house the deployed missiles at their bases. These structures, which have roofs that open, are the structures that will be required to be opened at SS-25 bases.

(U) Theoretically, an SS-20 missile could be "stored" in an SS-25 launch canister (since the SS-25 launch canister is larger than an SS-20 launch canister). However, operational deployment of an SS-20 force in SS-25 launch canisters would involve a number of difficulties, which could probably not be reliably solved without a significant operational test program involving SS-20 test firings from the modified launch canisters.

ARTICLE XIII, PARAGRAPH 1

(U) The United States insisted on the provision that the Special Verification Committee should not meet regularly, but only if either Party requests a meeting. This provides a clear forum for either Party to raise compliance concerns quickly, but does not make consideration of compliance issues a routine process.

(U) Measures to improve the viability and effectiveness of the Treaty referred to in this paragraph would not "amend" or alter the obligations of the Parties under the Treaty. Any such amendments would be subject to the formal ratification process. However, additional technical implementing procedures consistent with the provisions of the Treaty can be agreed upon by the parties during sessions of the Special Verification Commission.

ARTICLE XIV

(U) Article XIV simply records the Parties' undertaking to comply with the Treaty and not to assume any international obligations or undertakings that would conflict with the provisions of the Treaty. This provision thus reflects the duty of each Party under customary international law to comply with the Treaty (i.e., *pacta sunt servanda*). This provision does not impose any additional obligation on the Parties, nor does it broaden the interpretation of other obligations in the Treaty. This provision refers only to the assumption of obligations in the future, and existing agreements are therefore unaffected. Article XIV will not affect existing patterns of defense collaboration or cooperation with our Allies. Nor will this provision preclude cooperation with our Allies in modernization.

ARTICLE XV

(U) Our right to conduct on-site inspections for 13 years after entry into force is in no way based on an assumption as to when a START agreement will be signed. The right to conduct inspections for 10 years after elimination is an integral part of our verification regime and is designed to strengthen our ability to verify that all Soviet INF activity has in fact ceased. We believe that if the Soviets seek to maintain a covert force without the operational testing or training that would likely be detected by NTM, their confidence in the reliability of that force could be greatly diminished. We believe that if we do not detect any Soviet INF activity for 10 years, discontinuing the on-site inspection will not pose a problem. Any covertly deployed missiles would have little operational reliability at that point, given the restrictions on flight-testing and limits on infrastructure. Of course, we would continue to use NTM to monitor all Soviet missile-related activity, both during and after the 13 year inspection period.

(U) Concerning our right to request cooperative verification measures at certain SS-25 bases, the three year time period was keyed to the elimination period. Its purpose is to deter the Soviets from using SS-25 bases not subject to on-site inspection to hide SS-20 missiles during the elimination period.

ARTICLE XVI

(U) Measures to improve the viability and effectiveness of the Treaty referred to Article XIII, paragraph 1 would not "amend" or alter the obligations of the Parties under the Treaty. Any such amendments would be subject to the formal ratification process. However, additional technical implementing procedures consistent with the provisions of the Treaty can be agreed upon by the Special Verification Commission.

SIGNATURE

(U) We, of course, agree that the English and Russian translations of the Treaty should be consistent, providing for identical rights and obligations in both languages. It is the view of the Administration that the Treaty texts, as signed, are equally authentic and provide for identical rights and obligations.

PREAMBLE

(U) The preambular language is consistent with, and supportive of, long-held USG views on nuclear weapons arms control. Because the INF Treaty deals with nuclear missile systems, it is entirely appropriate that the Preamble refer to nuclear war as well as strengthening strategic stability and reducing the risk of the outbreak of war. President Reagan has stated that a nuclear war cannot be won and must never be fought. We believe that the INF Treaty contributes to international peace and security for the many reasons we have described in testimony and other public documents. Our views on the vital importance of remaining nuclear weapons for U.S. and allied security are well known.

ELIMINATION PROTOCOL

SECTION I, PARAGRAPH 4

(U) As discussed earlier in our assessment of the study's critique of Article VI, paragraph 2, the right of a party to produce one stage outwardly similar to, but not interchangeable with, a stage of a banned missile in no way vitiates the general prohibition on the production of INF missile stages. "Not interchangeable with" means "cannot be used in place of". Thus, the "outwardly similar" SS-25 first stage must not be interchangeable with the SS-20 first stage; if the SS-25 first stage were interchangeable with the SS-20 first stage, it would be banned by the Treaty.

ELIMINATION PROTOCOL

SECTION II, PARAGRAPH 3

(U) We agree with the study's conclusion that the right of each Party to retain the nuclear warhead device and guidance element from the INF missile is desirable. From a security point of view, destroying the means of delivering INF missile warheads -- as the Treaty requires -- is the most effective way of eliminating the military threat posed by Soviet INF forces.

(U) Moreover, without a ban on warhead production, the elimination of existing INF warheads would be meaningless; the Soviets could simply produce new ones. Verifying the elimination of warheads (not to mention the production of new ones) raises formidable technical challenges and difficult security issues. Intrusive verification measures could disclose sensitive U.S. nuclear weapons information to the Soviet Union. Finally, the warheads contain costly and scarce resources. It would be imprudent to destroy such material when the United States could save significant budgetary resources by saving it.

ELIMINATION PROTOCOL

SECTION II, PARAGRAPH 4

(U) The Elimination Protocol clearly delineates the actions that must be taken to eliminate an item from accountability under the Treaty. However, the equipment and procedures employed to accomplish these actions are best left to the Party who possesses the systems being eliminated and who is performing the elimination action. For example, it was not considered to be necessary to specify the particulars of the equipment to be used to cut or crush a given item. The focus of the procedures is on the end product -- an item that has been crushed, cut into pieces, or otherwise eliminated in an agreed fashion and that can no longer perform its Treaty-prohibited function. Many practical considerations, such as safety, cost, and equipment availability made negotiation of the technical procedures impractical and undesirable. These same considerations make it necessary to allow the side eliminating the Treaty items to determine if special technical procedures are required for observation of the elimination.

ELIMINATION PROTOCOL

SECTION II, PARAGRAPH 7

(U) The provision requires confirmation by an inspector from the Inspected Party that missile stages being eliminated by burning are not instrumented for data collection.

ELIMINATION PROTOCOL

SECTION II, PARAGRAPH 10

(U) With regard to the elimination versus modification of Soviet launchers, the procedures as outlined in the Treaty are designed to render the launchers unuseable such that it would probably take longer to reconstitute them than to build them from scratch. The procedures will significantly alter the chassis so as to deny its use as a launcher without major reconstruction. The erector mechanisms for the declared launchers will be destroyed thus preventing the Soviets from simply reinstalling them on another launcher chassis. The elimination procedures will be observed through on-site inspection.

(U) However, it is important to remember that only the declared final assembly facility for the launcher is subject to on-site inspection. Facilities capable of producing the launcher chassis and other components and assembling them have no uniquely identifiable features. Thus, detection of production of new launchers will be difficult. Of course, over a period of time, our confidence in detecting clandestine production will increase if the Soviets attempt to field a militarily significant force that would require a large number of launchers.

INSPECTION PROTOCOL

SECTION III, PARAGRAPH 7

(U) The obligation of the inspectors "to respect the laws and regulations of the (inspected) state" does not offer the Soviets the opportunity to circumscribe the on-site activities of U.S. inspectors. For example, paragraph 7 of Section VII states that "inspectors shall have the right to inspect the entire inspection site, including the interior of structures, ...". Paragraph 7 of Section II states that

"each Party shall facilitate inspection by the other Party." The Inspected Party has, therefore, an obligation to ensure that inspectors have access to the entire inspection site, except as restricted in the Protocol, and to ensure that any necessary implementing laws and regulations are in effect to allow this access. A law prohibiting access to part of the site would put the Inspected Party in violation of the Treaty by preventing the access required by the Treaty.

(U) On a related issue, inspectors may "request access," and thereupon the Inspected Party is obligated to grant rights of access as specified in the Protocol.

(U) The provision on respecting the laws of the Inspected Party specifies that inspectors (for baseline, close-out, elimination and short-notice inspections) can only be taken off the list of inspectors for the specified reasons. This differs significantly from normal diplomatic practice which allows a diplomat to be expelled without specified cause. Under the INF Treaty, the Inspected Party is required to make a specific determination and to notify the other Party of this fact. On the other hand, portal monitors can be rejected for any reason, much like in normal diplomatic practice. The different procedures are related to the fact that the portal monitors are in the United States for longer periods of time.

(U) The Treaty also specifically addresses the question of ensuring that the inspectors will be able to operate without personal risk. The inspectors are also accorded the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention, which states that "the receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity."

INSPECTION PROTOCOL

SECTION IV, PARAGRAPH 5

(U) At the eleventh hour of negotiations, the Soviets sought to name Shoenefeld Airport as the point of entry for INF inspections in the German Democratic Republic (GDR). We rejected the Soviet demand on the grounds that Shoenefeld is within the Berlin Control Zone Airspace and is thus controlled by the Western allies and the Soviets. The Soviet proposal was thus an attempt to compromise Allied rights and responsibility for the Berlin air corridor and to promote East German control over Shoenefeld and air access to it.

(U) Following a strong protest from Washington, the Soviet Union withdrew Shoenefeld and offered Leipzig as the point of entry. While the Treaty gives each Party the right to change points of entry unilaterally, any Soviet attempt to change the GDR point of entry from Leipzig to Shoenefeld would be met again with a strong U.S. protest.

INSPECTION PROTOCOL

SECTION V

(U) The Inspected Party has no right to interfere with the inspection process. The Inspection Protocol clearly states that the inspectors have access to the entire site except as restricted by the Protocol. The right of the Inspected Party to accompany the inspectors cannot be correctly characterized as having "wide powers."

(U) The obligation of the Inspected Party to provide telephone communication, transportation, etc., places a specific obligation on the Inspected Party. Failure to provide such services and to thereby "frustrate effective inspection" would be a violation of the procedures in the Protocol and would, of course, be subject to reciprocal actions by the U.S.

INSPECTION PROTOCOL

SECTION V, PARAGRAPH 4

(U) The paragraph clearly states that the in-country escort performs the examination. The Inspected Party is also responsible for clearing the equipment for entry into the country. Naturally, failure of the in-country escort to clear the equipment for use could result in a dispute, but the responsibility for making the determination and impounding the equipment resides with the Inspected Party.

(U) The characteristics of the inspection equipment brought in by the inspection team will, as required by the Treaty, be agreed within 30 days after entry into force of the Treaty. Hence, at the point of entry, the equipment examination will be conducted to determine that the equipment is as agreed and cannot perform other functions unconnected with the inspection requirements of the Treaty. Wording of the type suggested in the AEI report -- "equipment will not be cleared for use if it cannot perform any functions connected with the Treaty" (emphasis added) -- clearly would not be acceptable, since it would allow the Soviets to add intelligence gathering features to already agreed equipment and argue that it would still perform some functions connected with the Treaty and is thus permissible.

(U) Any equipment can be used for activities unrelated to the Treaty. Therefore, the Treaty states not only that the equipment but also the method of use will be agreed. We believe this will provide the greatest possible protection against the misuse of the inspection equipment.

INSPECTION PROTOCOL

SECTION V, PARAGRAPH 5

(U) The provision of services will be closely followed during Treaty implementation. The experiences of the CDE inspections have been favorable in this regard.

(U) Each agreement must be examined on its own to determine the merits of having the host country or the Inspecting Party furnish aircraft or other transportation. In any case, it is likely that the inspectors will be dependent upon the Inspected Party for transportation during a portion of the inspection. Further, the Inspecting Party would still be under control of Inspected Party air controllers even if the Inspecting Party used its own aircraft.

INSPECTION PROTOCOL

SECTION VI, PARAGRAPH 3

(U) As noted in the Article-by-Article analysis submitted to the Senate along with the INF Treaty, inspectors may, as required to conduct that inspection, request their escorts to undertake actions that would interrupt normal activities at a site. The provision in the Inspection Protocol prohibiting direct interference by inspectors is designed to prevent inspectors from undertaking such actions themselves.

INSPECTION PROTOCOL

SECTION VI, PARAGRAPH 6

(U) Concerns over the potential for intelligence by-products led to the inclusion of the restrictions of the movements of the continuous monitoring inspectors. As the provision emphasizes, travel within the limited area surrounding the monitored site may be taken only for leisure activity and only with the permission of the in-country escort. In addition, the inspector will be accompanied by an escort if the host country believes it is necessary.

INSPECTION PROTOCOL

SECTION VI, PARAGRAPH 7

(U) The use of host-country communications systems is not a hindrance to effective inspection. It is anticipated that the communications will be used largely for administrative purposes. For example, the short-notice inspections are performed for a 24-hour period by on-site personnel under the control of the team leader. The effectiveness of the inspection will by and large depend on actions the team takes and not on contacts with the Embassy.

(U) The issue of secure communications was addressed during the negotiations. It was specifically agreed that inspectors do not have the right to have secure communications with their Embassy. They are not authorized to bring such communication equipment with them on the inspection. When the Soviets proposed such a possibility, the U.S. rejected the proposal because the inspections are not intelligence-gathering exercises. It is not the function of inspectors to perform analyses and make judgments of compliance on the site. Their function is to make the observations called for in the Treaty. Consequently, we do not see a need for secure communications with the Embassy during the inspection to discuss observations made by the inspectors. In addition, providing secure communications during an inspection would be difficult. Such sensitive communications equipment could not be subject to inspection without compromising the code needed to secure the conversations. Furthermore,

the conversation would need to take place in the absence of the in-country escort. Finally, a secure room would be needed for the conversations. Arranging for secure communications to be available at an inspection site in the Soviet Union on 9-hour notice would be extremely difficult, if not impossible.

INSPECTION PROTOCOL

SECTION VI, PARAGRAPH 9

(U) The characteristics and methods of use of equipment were discussed with the Soviets. The specific pieces of equipment to be used during the inspection, however, will be determined largely by operational considerations. These operational considerations are best addressed by the organizations of each country that will be performing the inspections. Actions are under way to pick the specific cameras, etc. that the OSIA will be using. These decisions will be discussed with the OSIA's Soviet counterpart to ensure that agreement is reached prior to 30 days after entry into force of the INF Treaty.

INSPECTION PROTOCOL

SECTION VI, PARAGRAPH 14

(U) The period of 24 hours for short-notice inspections was chosen as a conservative length of time for such inspections. Missiles, stages of missiles, and launchers are not small items. Even with "dilatatory maneuvers", an inspection period of 24 hours was considered to be sufficiently long to allow the inspection to be effective in locating and confirming the count of missiles, stages of missiles, and launchers.

INSPECTION PROTOCOL

SECTION VII, PARAGRAPH 1

(U) The Inspecting Party does not need to verify that a stand-down order has been "issued." The ability to monitor such a stand-down must be addressed separately. The Treaty, however, makes the obligation of the Inspected Party explicit. The stand-down obligation contained in paragraph 1 of Section VII of the Protocol is clear.

INSPECTION PROTOCOL

SECTION VII, PARAGRAPH 8

(U) The provision applies only to launch canisters for the systems not limited by the Treaty. The provision does not refer to general types of canisters or containers that might be associated with a missile not subject to the Treaty; the launch canister is clearly specified. Further, as part of the permitted external inspection, the use of radiation detection devices is permitted.

INSPECTION PROTOCOL

SECTION VII, PARAGRAPH 9

(U) Section VII, paragraph 7 makes clear that the counting rules of paragraph 10 of Article VII of the Treaty do not apply to these types of inspections. This provision refers to stages of a missile, not just the largest stage. The "stages of a missile" phrase also applies to stages of all missiles subject to the Treaty, not just to

missiles stored or moved in separate stages. This applies equally to U.S. and Soviet missile types.

INSPECTION PROTOCOL

SECTION VII, PARAGRAPH 10

(U) Whether a demonstration that a space is too small to contain a missile, or stage of a missile, needs to be repeated in subsequent inspections is clearly at the discretion of the inspection team. The language states the demonstration is to be "to the satisfaction of the inspection team." An inspection team performing a subsequent inspection may or may not be satisfied by the results of a previous inspection. The demonstration that a space was empty during one inspection would clearly not be accepted by a subsequent inspection team without a re-examination. The wording of a demonstration "to the satisfaction of the inspection team" is used in both cases.

INSPECTION PROTOCOL

SECTION VII, PARAGRAPH 14

(U) The same comments apply as to paragraph 8 of Section VII. A launch canister is an identifiable item; it is not just any canister.

INSPECTION PROTOCOL

SECTION VIII, PARAGRAPH 1

(U) The "right to call the attention of the in-country escort to the need for strict compliance" with the procedures of the Protocol on Elimination means just that. First, the procedures for elimination are agreed by both Parties. A procedure having the same end effect is not permitted without explicit agreement by the Parties. Second, the inspectors verify that these procedures have been followed. Therefore, if the inspector believes that a deviation from the procedures is taking place, he has the clear right to call this deviation to the attention of the in-country escort. It is then the responsibility of the in-country escort to ensure that the proper procedures are followed. If the proper procedures have not been followed, the inspector will certainly note this in his report.

INSPECTION PROTOCOL

SECTION VIII, PARAGRAPH 2

(U) First, the inspection of the elimination process for most items is an obligation. For some items, such as training missiles, the inspection of the elimination is a right, but not an obligation. The differences between eliminations carried out pursuant to paragraphs 7 or 8 of Article XI of the Treaty are related to this difference. In any case, inspection procedures are provided in the Protocol on Elimination for all types of items.

INSPECTION PROTOCOL

SECTION IX, PARAGRAPH 1

(U) The United States did not want the same rules to apply to continuous monitoring of Hercules Magna that were applied in short-notice inspections (where objects as small as any stage, including second stages of both sides, are subject to inspection). The pro-

cedures of this paragraph clearly distinguish the inspection rights at Hercules from those applicable during short-notice inspections. The different parameters existing for the U.S. and Soviet Union concerning the size of items and containers to be inspected reflect the operational practices of each side. The U.S. ships missiles constrained by the Treaty in stages; the Soviets ship each missile "full-up" in their launch canisters.

(U) The perimeter will be discussed and agreed with the Soviets and take into account the operational requirements of Hercules Magna as well as the inspection requirements at Votkinsk.

INSPECTION PROTOCOL

SECTION IX, PARAGRAPH 13(c)

(U) The words "responsibility of the inspected party to demonstrate" in this paragraph are the same words used in paragraph 14 of Section VII and mean exactly the same thing in both paragraphs. Paragraph 14 of Section VII is the first place where these words are used and several sentences follow that explain how such a demonstration could be accomplished.

INSPECTION PROTOCOL

SECTION IX, PARAGRAPH 14

(U) The last sentence states that the length and diameter of the stages of the missile shall be measured. We will measure the first stage and are permitted to do so under paragraph 14(c)(iii). The other stages of the SS-25 will be measured to verify that there is not more than one stage which is outwardly similar to a stage of the SS-20. Reliable technology is available for measuring the length and diameter of the second stage of the SS-25 missile in its launch canister.

INSPECTION PROTOCOL

SECTION X

(U) It was clearly understood that only delays that result from force majeure would exempt the Inspected Party from a violation of the Treaty if it did not get the inspection team to the inspection site within the required nine hours. The possibility that the Inspected Party will fail to meet its obligations due to force majeure circumstances (for example bad weather) must be considered and does not represent an "all-purpose loophole". The Section establishes the right of the Inspecting Party under such force majeure delays to cancel or carry out the inspection. It does not relieve the Inspected Party from its responsibilities to ensure that the Inspecting Party arrives at the site within the required nine hours.

INSPECTION PROTOCOL

SECTION XI, PARAGRAPH 1

(U) The written report is not intended to contain analysis of observations. The United States resisted any attempts to include a requirement for analyses in the inspection report. The inclusion of the sentence "The report shall be factual," is intended to reflect this point. The inspection report documents factual observations by

the inspection team. Any analyses or conclusions will be made by the Inspecting Party after extensive study of a complete report from the inspection. They are not to be made by the inspection team on site.

INSPECTION PROTOCOL

SECTION XI, PARAGRAPH 2

(U) The stated hypothetical problem of "conforming of report texts" is not a part of report preparation. We plan to have a pre-established format for inspection reports, written in both English and Russian. Inspectors will complete the report by entering checkmarks and numbers in appropriate places. Additional written comments will be kept to a minimum.

MEMORANDUM OF UNDERSTANDING

(U) We have made it clear that there are some differences within the US Intelligence Community over estimated numbers of Soviet systems. It is not surprising that there are differences of opinion; they reflect independent analyses which add to the strength of our monitoring process. The Soviet numbers for deployed and non-deployed forces are, for the most part, near the estimates of our Intelligence Community, allowing for the range of our uncertainties. However, there are some differences in agency views on the number of non-deployed SS-20s. Estimates for non-deployed systems are, of course, inherently less certain. They vary by agency, reflecting the independent analyses noted above. There are 3 agency views. Two are close to the Soviet-declared number. One is not.

(U) The capability of detecting covertly stored Treaty-limited weapon systems will depend on the scenario, including size of force, state of readiness, mode of operations, training requirements and a number of other forces. But the Treaty is designed to deal with possibilities such as the Soviets having more non-deployed SS-20s than we assess. Our National Technical Means can verify Soviet com-

pliance with the Treaty's ban on INF flight testing, as well as the Treaty's ban on INF infrastructure and activity. Testing, training and infrastructure are essential to a militarily effective force. Thus, unless the Soviets were willing to risk detection, the military effectiveness of concealed SS-20s would degrade over time.

Memorandum

*To: Republican Senators
on the Senate Foreign Relations Committee*

From: Jesse Helms

*Re: The Treaty on Intermediate-range Nuclear Weapons
Does It Decrease--or Increase--the Danger of Nuclear War?*



January 25, 1988

Memorandum

To: Republican Members
of the Senate Foreign Relations Committee

From: Jesse Helms

Re: The Treaty on Intermediate-range Nuclear Weapons
Does it decrease--or increase--the danger of nuclear war?

January 25, 1988

The background material in this memorandum was prepared by the Minority Staff of the Senate Foreign Relations Committee to assist in the Committee's deliberations on the Treaty. I directed the staff to ask the hard questions, questions that will bring out the most searching examination. I believe that the Administration is prepared to answer these questions. At that point, each Senator may proceed, after due consideration, with his or her Constitutional duty of advice and consent.

The signing of the INF Treaty marks a new departure in the relationship between the United States and the Soviet Union. The fundamental question is whether this treaty decreases or increases the danger of nuclear war. That issue is so fundamental, that we must not get lost in the technicalities of verification, compliance, and missile technology. It is appropriate, therefore, to examine all aspects of the U.S.-Soviet relationship, and not to view the Treaty in isolation. Not only will the success of follow-on arms control agreements depend on clear knowledge and understanding of the steps being proposed at this time; the future of our nation and the future of our children will be profoundly affected by the outcome.

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Relations with Allies: Does the INF Treaty strengthen or weaken NATO?

General Bernard W. Rogers was the Supreme Allied Commander in Europe (SACEUR) for eight years, having been elected to an unprecedented four terms. General Rogers was deeply involved with all of our NATO allies during the period of debate, planning, and deployment of NATO's INF. This experience gave him unique insight into the military and political needs of NATO. The following is excerpted from General Rogers' current article in *Global Affairs*.

Bernard W. Rogers ARMS CONTROL AND NATO DETERRENCE

One day after the 200th birthday of our Constitution, the president announced that the United States and the Soviet Union had agreed in principle to conclude a treaty eliminating intermediate-range nuclear forces (INF) on a global basis. The coincidence of those two events seemed remarkably ironic.

On the one hand, the Preamble of our Constitution sets out six objectives which the government, formed by the Constitution, is expected to promote. Among them are:

- "to provide for the common defense" and
- "to secure the blessings of liberty to ourselves and our posterity." These two objectives are the basis for the highest moral imperative of our democratic government: to keep its people alive and free.

On the other hand, is the prospective INF reduction accord, in the long term, consistent with the best interests of the people governed by the Constitution?

To address that question is the purpose of this essay. I will discuss some aspects of NATO's strategy that impact on arms control negotiations; expand on NATO's mission of deterrence and its requirements; discuss arms control in general and the

prospective double-zero INF agreement in particular; list my concerns with the latter; and indicate what NATO must do if the agreement is implemented.

NATO Strategy

Among the many alliances that this nation has joined in order to secure its freedom, the most important is the North Atlantic Treaty Organization of sixteen sovereign, independent nations. NATO was founded in 1949 as a body to deter further Soviet expansion to the west. But the Harmel Report, adopted by NATO in 1967, concluded that the alliance has two main functions:

- 1) To maintain adequate military strength and political cohesion to deter aggression and other forms of pressure, and to defend NATO territory if deterrence fails.
- 2) To pursue the search for progress towards a more stable relationship in which the underlying political issues can be solved.

In May 1984 the North Atlantic Council confirmed the continuing validity of the Harmel Report.

At about the time of Minister Harmel's report, the deterrent strategy of NATO was changed from "tripwire-massive retaliation" (which had become bankrupt) to "flexible response." Over the past twenty years the NATO nations have continually reaffirmed the viability of this war prevention strategy, which encompasses three responses:

- 1) Direct defense to defeat an attack or to force the burden of escalation onto the shoulder of the aggressor.
- 2) Deliberate escalation on NATO's part, to include the possible first use of theater (non-strategic) nuclear weapons.
- 3) The general (strategic) nuclear response which, in the final analysis, is the guarantor of NATO's deterrence.

The flexible response strategy requires a triad of forces: con-

ventional, non-strategic nuclear, and strategic nuclear. After commencing in December 1983 to deploy the longer-range INF (LRINF) weapons—ground-launched cruise and Pershing II ballistic missiles—the major deficiency within the triad remains NATO's conventional forces. These have never been adequate to the task since budgetary constraints and the appeal of public and social programs have led NATO to mortgage its deterrence to the nuclear response.

Since the early 1970s, the gap between NATO's conventional force capabilities and those of the Warsaw Pact (WP) has been getting wider each year. The WP advantage is at least two to one in nearly every area of measurement and greater in most. With its mission, NATO does not need to match the WP one for one in any area of force comparison—tanks, howitzers, aircraft, ships—but it must not let the gap widen to the point where the military situation is beyond restoration for an alliance whose mission is the prevention of war. Should that situation occur, the Soviets would be able to achieve their objective of being able to intimidate, coerce, blackmail, and neutralize the West European nations without calling the WP troops out of their barracks. Or, as put better by another, be able "to gather the fruits of victory without the pains of war."

Should NATO fail in its mission of deterrence and be attacked conventionally by the Warsaw Pact, NATO forces would respond in an excellent manner. The problem is that these forces would only be able to fight conventionally for less than two weeks. Why? Because of an inability to sustain themselves in the fight due to inadequate ammunition stocks, insufficient trained replacements for casualties, and lack of replacements for material losses on the battlefield, such as tanks. (The U.S. forces' sustainability is better than that of its allies—with the length of U.S. lines of communication it should be—but the United States also has deficiencies in all three areas cited.)

The Soviets may doubt that NATO would resort to the first use of nuclear weapons, but they cannot be certain inasmuch as capitulation would be NATO's alternative. This Soviet uncertainty is an important factor in NATO's equation of deterrence.

If NATO is to make its full contribution to deterrence it must possess two key tools. They are set forth in NATO's "General Political Guidelines for the Employment of Nuclear Weapons." The first is the ability with land-based, theater nuclear weapons to hold at risk—with certainty—militarily significant targets deep in the Soviet homeland. The second is to have a number of escalatory options between NATO's disadvantaged conventional forces at one end of the force spectrum and U.S./U.K. strategic nuclear forces at the other end.

It was to provide these two tools, and thereby fill a gap in NATO's spectrum of deterrence, that NATO made the decision in 1979 to deploy the ground-launched cruise missiles (GLCMs) (range: 1,500 miles) and the Pershing IIs (PIIs) (range: 1,100 miles) on West European soil. With the British Vulcan aircraft being retired, NATO had concluded by the end of the 1970s that the U.S. F-111 aircraft based in England—the only NATO aircraft with any chance of penetrating to Soviet territory—would no longer be adequate to qualify as the first tool. This conclusion was especially cogent in view of the increasing difficulty of manned aircraft to penetrate the massive and expanding WP air defenses. The two new NATO weapon systems also increased the number of escalatory options.

Arms Control

As I mentioned earlier, the Harmel Report concluded that one of the functions of the alliance is to seek a more stable relationship with the Soviet Union. Dialogue, détente, and arms control negotiations play a role in that function. I believe that dialogue at the highest level is important. Today it is being conducted with General Secretary Mikhail Gorbachev, who is charming, clever,

With respect to a conventional attack by the Warsaw Pact, the guidance to the Supreme Allied Commander in Europe (SACEUR) from his political authorities is: Before you, SACEUR, lose the cohesiveness of your defense you will (not "may") request the release of nuclear weapons. The reason? To signal to the WP that NATO is prepared to resort to nuclear weapons to defend itself, thereby trying to convince the pact to cease and desist in its attack. Under such circumstances, SACEUR would request the initial use of a limited number of land-based theater nuclear weapons upon militarily significant Soviet targets on Soviet and non-Soviet Warsaw Pact soil. Striking Soviet targets would send the message that the USSR would not be immune to NATO's response to pact aggression. Certainly at this stage SACEUR would not wish to request the use of nuclear weapons on targets on the territory of NATO nations.

NATO's Mission: Deterrence

Having discussed some aspects of NATO's strategy that impact on arms control negotiations, I wish to return to the mission of NATO: the deterrence of war. Deterrence is in the eye of the beholder, the Soviet Union. To be deterred from attack, or from exerting pressure through the threat of attack, the Soviet Union must perceive that the disadvantages it would suffer from aggression would be greater than any advantages it might accrue. In other words, it would receive greater pain than gain. It must be convinced that the consequences of its aggression would not be suffered solely by the victims of that aggression. The Soviets must always face the ultimate risk that pact aggression could result in NATO's first use of theater nuclear weapons, which might escalate further to a strategic nuclear exchange, the one thing the Soviets fear. The loss of twenty million citizens in World War II still preys on the minds of the Soviet people. Chernobyl confirmed the mental impact that would result from a strategic nuclear exchange.

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credible deterrence, and taken a brief look at arms control in a general way, let me remind you of how NATO got to where it is today with respect to the potential INF accord. It was not easy.

From Two-Track to a Double-Zero

As I have mentioned, as the end of the 1970s approached, NATO's political authorities recognized the gap that had opened in NATO's spectrum of deterrence, what with the British Vulcan being retired and only the U.S. F-111 remaining as a theater system that could be perceived by the Soviets as lending credibility to NATO's deterrence. To fill that gap, NATO decided in December 1979 to deploy the 464 GLCMs and 108 PII ballistic missiles in Western Europe. Although this deployment was "sold" to NATO's publics as a means to capture the SS-20s—utilizing the negotiating track of the two-track decision—the fact was that even without the SS-20s, the deployment was deemed necessary if the credibility of NATO's deterrence was to be kept sufficiently high. The fact that the SS-20s were being deployed in the late 1970s just made more urgent NATO's decision to get on with deploying the two LRINF systems by December 1983.

In the early 1980s many demonstrations against deployment were staged in a number of NATO nations. In order to dampen this opposition, the president, in 1981—at the behest of some allied leaders—proposed an agreement between superpowers to reduce to zero all LRINF weapons. Or, stated another way: If the Soviets would eliminate their SS-4 and SS-20 ballistic missiles, NATO would not deploy its GLCMs and PIIs. No one then believed that the Soviets would accept such a proposal. (However, today there are some former disbelievers who now claim that they thought all along that the Soviets would accept it.) There were some of us in 1981 who stated that the president's proposal made a lot of sense politically, but not militarily. (I said then that "militarily, it gave me gas pains.") The proposal would have returned NATO to its posture of 1979, dependent again solely

and charismatic. But he is also Russian and a Communist, something we should never forget. Further, Andrei Gromyko has reminded us that while Gorbachev smiles a lot, he has iron teeth. The West must be wary and not mistake the general secretary's rhetoric for substantive change in Soviet foreign policy; we have noted none to date. Gorbachev does seem intent upon domestic reforms that appear to be causing some internal tensions. In this regard, we should not let a lesson of history be lost on us; that is, autocratic regimes often find a rationale for external excursions in order to distract attention from internal difficulties.

Turning to the matter of arms control in general, I believe there are two cardinal principles to keep in mind during negotiations:

- 1) Accept no agreement that impacts adversely on the credibility of NATO's deterrence in the Soviet mind.
 - 2) Arms control accords are not an end in themselves, but are a means to the end of greater security at less cost.
- Further, when negotiating proposals are tabled, there are certain questions which should be asked as the proposals are evaluated. For the SACEUR, an international officer serving sixteen NATO nations, his overarching question must be: "What's best for NATO as a whole?" not, "What's best for any nation or group of nations?" Other questions to be asked include: Does the proposal lessen the threat? Does it improve NATO's response to the threat? Does it impact on NATO's continuum of escalation? Does it tend to make the Soviet Union a sanctuary? What is its impact on nuclear burden-sharing among the allies? Would it result in an overdependence on one of the remaining nuclear systems? What is the level of risk if the proposal is accepted? And whose risk is it—that of the United States?—of the West European nations?—or both?

Having reviewed some aspects of NATO's strategy as they relate to arms control, set forth some of the requirements for

balanced conventional and chemical forces. As Lord Chalfont, chairman of the House of Lords All-Party Defense Group, has noted:

... the arms control agreements that have been reached over the past 25 years have all been based on one central assumption—that in the disarmament process it is dangerous to try to approach nuclear weapons and conventional forces separately. If they are ever to be eliminated, they must be reduced together, in a phased, controlled process.²

But the response we got to the suggestions of "linkage" revealed that the principle of preemptive consensus would prevail: that is, "The Soviets won't agree to such linkage, so we won't try to get it."

Along came the Reykjavik Summit in late 1986 and, to their consternation, the West Europeans found that the fundamental elements of NATO's deterrent strategy had come very close to being negotiated away by the United States without consultation with its allies. Suddenly it dawned upon the West Europeans that the two superpowers might negotiate the fate of Western Europe over their heads and without their input. Living in Europe, I found it very interesting to observe how nervous the West Europeans became after Reykjavik and how they thanked Gorbachev for saving the West from itself.

In the aftermath of Reykjavik, many senior personnel in the governments of Western Europe realized how unwise it had been to promote the zero-level LRINF proposal. But after trying for six years to convince their people that zero-level was the course to pursue, how could governments walk the cat back and tell their people that they had misled them all that time? They could not and still retain any political credibility. So, like it or not, it became necessary for political credibility to take priority over the credibility of NATO's deterrence.

upon the F-111 to undergird the credibility of its deterrence. Some of us also pondered at the time why it was that the Soviets did not jump at the zero-level LRINF proposal since the advantages were all in their favor.

I do wish to observe, however, that the zero-level LRINF proposal did have a dampening effect upon the demonstrated opposition to deployment of the U.S. LRINF systems.

The continued deployment on schedule of the GLCMs and PIRs, beginning in December 1983, also brought the Soviets back to the negotiating table and has kept them there. They are especially worried about the Pershing II ballistic missiles, which can hold at risk important targets on Soviet soil with the certainty of penetrating WP air defenses and of striking with great accuracy within thirteen minutes of launch. With PIRs deployed, the Soviets found themselves in the same posture in which they had held the West European nations for so many years—vulnerable to nuclear warheads launched from land-based theater systems. The USSR did not like it; and, as described by one of the senior members of the U.S. negotiating team, they set out to capture the PIRs no matter what the price.³

By early 1986 we started hearing noises that the latest Soviet leader, Gorbachev, might be leaning towards accepting the "unacceptable" proposal of 1981. Some wondered: Why now, after all those years? I believe that Henry Kissinger's explanation is on target: Anatoly Dobrynin, the Soviet ambassador to the United States for two decades and now foreign policy adviser to Gorbachev, convinced his boss that what you see from the Americans is what you get, and not something devious. Since the gains were all Soviet, Gorbachev started showing an interest in the single zero-level proposal.

With a possible agreement in the offering, some of us wanted to link full implementation of the elimination of LRINF weapons to a satisfactory agreement by the superpowers on reduced and

PIBs, resulting from converting PIRs *already deployed*, would not result in deployment of a "new" missile as described by the United States. We also advocated retaining and modernizing the seventy-two German PIAs.

Although the PIAs and PIBs could not hold at risk militarily significant targets on Soviet soil, they could at least hold such Soviet targets at risk in western Poland, East Germany, and much of Czechoslovakia. The Soviets would know that NATO would be capable of bringing pain to them, thus keeping the credibility of NATO's deterrence as high as possible in their minds, although not as high as with deployed PIRs that could strike the Soviet homeland.

I believe that West European allies missed a golden opportunity to halt the slide down the slippery slope of denuclearization of Western Europe at a range of 440 miles instead of 500 miles where agreement on double-zero will stop it, at least momentarily. But it was not to be. Before the British general election in early June 1987, Prime Minister Margaret Thatcher accepted zero-level for SRINF. Her action astonished some in the French government who told me she had promised them she would not accept it.² Then French President Francois Mitterrand also agreed with zero-level SRINF, this time to the consternation of some senior members of his government.³ Thus, Chancellor Helmut Kohl was left out on a limb, trying, as a minimum, to protect the seventy-two German PIAs from elimination, with the Free Democratic and Social Democratic parties feverishly sawing away at it.

The North Atlantic Council accepted the double-zero proposal during its meeting in Reykjavik in June 1987, arguing that third country systems (such as West Germany's) should not be included.

Although the chancellor tried bravely to salvage his country's PIAs, in the end, after what he described as having been urgent discussions with U.S. officials over the previous forty-eight hours,

In February 1987, Gorbachev firmly hoisted NATO by its own petard when he openly accepted the zero-level SRINF proposal of 1981.

NATO, seeking a way out of the corner into which it had painted itself, cried out that it could not give up its GLCMs and PIRs while the Soviets still had shorter range INF (SRINF) weapons forward deployed—SS-20s and SS-23s—which would be able to strike most of the same SS-20 targets in Western Europe after the SS-20s had been eliminated. So, in April 1987, Gorbachev—true to form—told Secretary of State George Shultz in Moscow that he would throw in the SRINF as well. After all, he pointed out, the Soviet Union was the only country that had any. And he was correct, inasmuch as the United States had withdrawn its Pershing IA ballistic missiles (range: 420 miles) from West Germany when it had deployed the PIRs.

With a double-zero accord now a possibility, the United States pressed its allies to make a quick decision on Gorbachev's zero-level SRINF proposal, suggesting they decide within three weeks. The United States also informed its allies that it would take to the negotiating table the position on the proposal that the allies desired. At the same time the United States made it clear that Gorbachev's proposal made sense, because if the allies did not agree with his proposal, they would, according to the United States, have to deploy a "new" SRINF missile on West European soil.

Some of us suggested to the West European allies that the better course of action would be to accept Gorbachev's previous proposal to destroy the forty-two Soviet SRINF systems that were forward deployed on non-Soviet territory and then match the Soviets at the level of their eighty remaining SRINF (or at an equal, lower level). This match could have been accomplished by removing one stage from the appropriate number of PIRs, thereby converting them to PIBs with a range of 440 miles. The

One might well declare: Does not this put NATO back where it was in 1979 when it decided the F-111 was not enough to fill a large gap in NATO's spectrum of deterrence? And one would be correct! One also might properly ask: "And what has changed since 1979 to cause NATO to conclude there is no longer a need to fill that gap, as the soon-to-depart GLCMs and PLIs did?" Answer: "Nothing!"

As noted, it is not a question of the number of land-based theater nuclear warheads remaining after the agreement. The real question is: "Will NATO retain the appropriate types of theater nuclear warheads remaining after the agreement. The real question is: 'Will NATO retain the appropriate types of theater nuclear weapon platforms to enable it to place nuclear warheads on significant Soviet military targets, and do the Soviets believe that NATO can do it?'" After the agreement is implemented the answer will be "no."

Another rationale often heard to justify double-zero INF is: "The Soviets are giving up over 1,550 warheads and the United States and West Germany only about 430; surely that is a good deal for NATO." Again, numbers only count if NATO has to fight. But for NATO, the name of the game is deterrence, the prevention of fighting, so long as its nations can retain their freedom. The fact is that the Soviets will be giving up only about 3 percent of their current nuclear warheads; almost all of the remaining 97 percent—thousands of warheads—can strike Western Europe if the Soviets wish. And fourteen of the sixteen NATO nations are in the Western European area. And what is NATO giving up? The one theater weapons system that, in the eyes of the Soviets, makes NATO's deterrent highly credible—the PLI.

Some who argued most vigorously in 1977-79 against using the 400-plus warheads on submarine-launched ballistic missiles (SLBMs) committed to SACEUR as a substitute for deploying

on the slippery slope of denuclearization of Western Europe, which is what the Soviets want. Such denuclearization would make Western Europe safe for WP conventional aggression with no fear of nuclear escalation. More likely, however, in view of the imbalance in conventional forces, it would result in accelerating the achievement of the Soviet objective of neutralizing Western Europe without having to fire a shot. Such neutralization would impact adversely upon the United States.

The risk of starting down the slippery slopes of denuclearization is that it brings NATO from a range of 1,500 miles (GLCM) to a range of 300 miles for its theater land-based systems. This may well open the door—with the German people applying the pressure—to slide on down to a range of zero—total denuclearization. After all, the theater systems that will remain will generally be able to strike targets only on German territory—West and East German.

I am also concerned by the glib rationales being put forth by some persons to justify the double-zero agreement. One is: "The Montebello decision left 4,600 land-based nuclear warheads in Western Europe; surely that is plenty." However, when one strips away the 572 NATO LRINF weapons we would eliminate, what is the composition of the remainder? A few maritime nuclear depth charges with zero range. Hundreds of artillery-fired atomic projectiles with a range of 9 miles. About eighty Lance missiles with 66-mile range. (Both the artillery and the Lance would need to be sited well behind the front-line troops to reduce their vulnerability to enemy fire, thus reducing their effectiveness.) There would be the seventy-two FRG PLIs with a range of 420 miles which, as mentioned, will be eliminated. The other system remaining consists of bombs to be delivered by NATO aircraft (range: 180-200 miles), with the U.S. F-111 being the only one that could penetrate the WP air defenses. Should we expect these residual forces to conjure up a perception of pain in the Soviet mind? Hardly.

Others have suggested that the U.S. sea-launched cruise missiles (SLCMs) could be used to "compensate" for the loss of LRINF. Again, such use is technically feasible. But aside from the fact that the SLCMs—like their cousins, the GLCMs—are relatively slow flying, small, unmanned aircraft vulnerable to WP air defenses—as well as subject to other constraints that I will not detail—there is an overriding political reason for not compensating with SLCMs. I don't believe that it is politically credible for the West to be seen withdrawing nuclear weapons with one hand and replacing them with similar systems with the other. After all, if political credibility did not now have the highest priority, NATO would not be primed to eliminate all its LRINF.

To me it appears that the rationales offered by persons seeking to justify the prospective agreement suffer from either not being based on fact or logic, or they are transparent—or both.

My final concern is that NATO, following the apparent accelerated timetable of the United States, is about to sacrifice the long-term credibility of its deterrence on an altar of short-term political expediency and image enhancement of some of its leaders. And all because of a 1981 proposal that close analysts over time has proven we should not have offered, especially if we did not expect, or want, the Soviets to accept it. Unfortunately, when the full adverse impact of this accord is felt, today's leaders and their governments will be long gone. And who will bear the brunt of this short-term approach? The people of NATO's nations, especially those in Western Europe.

Summary/Conclusion

I have concluded that:

- 1) The double-zero INF agreement will reduce the credibility of NATO's deterrence in the eyes of the Soviet Union, thus impacting adversely on Western security.

the LRINF are today claiming just as loudly that NATO should now use those SLBMs in order to "compensate" for eliminating the LRINF. Technically this is possible, but does it make any more sense now than it did eight years ago? The SLBMs are a key component of the U.S./U.K. *strategic* nuclear arsenal. Although Soviet surveillance can discriminate between the launching of land-based theater ballistic missiles and submarine-launched ballistic missiles, it cannot differentiate between the 400-plus strategic SLBM warheads committed to SAC/CEUR and the remainder of the SLBM warheads belonging to the strategic nuclear forces of the United States/United Kingdom. Especially is this so since there can be an intermingling of SAC/CEUR assets and U.S. assets on the same submarine since there are ten nuclear warheads on each of the sixteen missiles deployed in a U.S. boat. If the Soviets sighted strategic SLBMs being launched and heading their way, how could they tell whether they were SAC/CEUR's warheads being used for *theater* purposes or were part of a *strategic* nuclear lay-down by the two Western nuclear powers? They could not. Should the Soviets be geared to launch their strategic nuclear forces under attack, why should the United States and United Kingdom bear the risk of being devastated because NATO used *strategic* SLBMs for *theater* purposes? They should not. The SAC/CEUR should continue to coordinate the use of the SLBMs committed to him with the employment of the other strategic nuclear weapons of the United States/United Kingdom, just as he has done for years.

Some have suggested that after the INF agreement the West should threaten to use any U.S./U.K. *strategic* system, no matter where based, to strike targets on Soviet soil should the WP stage a conventional attack on NATO. This smacks of the old, defunct "massive retaliation" strategy of the 1950s that NATO discarded because it was no longer credible by the late 1960s. Eliminating NATO's INF weapons does not make that strategy any more credible now.

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Notes

1. Discussions during Bilderberg Meetings, April 24-26, 1987, Villa d'Este, Italy.
2. "A European Perspective," by Lord Chalfont, *World & I*, September 1987.
3. Discussions with senior French officials during my farewell calls as SACEUR, Paris, June 10, 1987.
4. *Ibid.*
5. "Verification in an Age of Mobile Missiles," Kenneth T. Adelman, *World & I*, September 1987.
6. *Ibid.*
7. *Ibid.*
8. Lord Chalfont, "A European Perspective."
9. *Ibid.*
10. *Ibid.*

2) The INF agreement puts NATO on the slippery slope leading to the denuclearization of Western Europe, which is what the Soviets want.

3) The denuclearization of Western Europe would make that region safe for Soviet conventional aggression, or, more likely, result in the neutralization of Western Europe from the threat of WP conventional might.

4) NATO, prodded by the United States, is sacrificing the long-term credibility of its deterrence for short-term political expediency and the burnishing of the images of some of its leaders.

5) Even if the INF accord appears to be in the short-term interests of the United States, the long-term impact could be detrimental to the United States.

6) There are certain actions that NATO must and can take whether or not a double-zero accord is implemented, and its implementation only makes the undertaking of these actions all the more important.

7) It is doubtful that adequate resources will be forthcoming to implement the requisite actions.

8) Planning by NATO to use strategic nuclear weapons for theater purposes to "compensate" for the INF accord would not be credible to the Soviets and should not be to the West.

9) Whatever NATO does in the backwash of double-zero, it will not be able to raise the credibility of its deterrence in the eyes of the Soviets to the level that NATO's LRINF have done, especially the Pershing IIs.

include nuclear missiles capable of reaching military targets in the Soviet Union. Such a capability—that is to say, the INF—was insufficient to oppose invading Soviet forces, but it was enough to deter the Soviets from proposing such an invasion in the first place. The Pershing II is swift, sure, and powerful. The INF was to be deterrent in nature, not defensive.

Despite a massive program of Soviet-inspired and in part Soviet-financed political demonstrations in Europe, NATO members agreed to deployment of the Pershing II missile on their territories in 1981. When the United States proposed the double-zero option, eliminating both SS-20s and the Pershing IIs, the Soviets rejected it out of hand. Nevertheless, the need remained to denuclearize Western Europe if the Orgarkov Doctrine were to be successful.

Orgarkov spent three years in the planning and implementation of the doctrine. In 1984, he was given the chance to demonstrate in practical terms how the doctrine could be applied. He himself became the Commander of the Western District. Who else could best implement the doctrine?

As commander of the Western District, Orgarkov is in direct charge of all theater forces, including the SS-20s—and perhaps even the variable-range SS-25s—in the Western Soviet Union, Poland, Czechoslovakia, and East Germany. As a former SALT negotiator, he is keenly aware

to direct operations against Europe, placing all operations, including naval operations, under a single commander. Thus Europe would be confronted directly by the Soviet Union, instead of through the Warsaw Pact.

The significance of this action was, literally, to place the Soviet Union on a war footing, with the three theaters directly under the Supreme High Command. Had Soviet strategy been a nuclear one, relying upon the Strategic Rocket Forces to defend against U.S. strategic deployments, such preparations such theater forces would not have been necessary. Nor would theater preparations be necessary had the Soviets been expecting an invasion from NATO forces; but NATO has never had sufficient conventional forces to attack the Soviets, even if the NATO high command could have conceived of such an attack. The high degree of mobilization in the Orgarkov plan is necessary only if the Soviets had aggressive designs against NATO.

Orgarkov became Chief of Staff in 1977, the year that the SS-20s were first deployed. He was well aware that their purpose was political terror, rather than actual use. It was blackmail of a high order to hasten the denuclearization of Europe which had begun unilaterally in 1961.

However, the deployment of the SS-20 had the opposite effect, enkindling a furious debate. Finally NATO decided in 1979 to extend its range of options to

the SALT II negotiations: he appeared prominently with General Secretary Brezhnev and President Carter in the 1979 summit. In 1969 he was also put in charge of the newly-created Directorate of Strategic Deception (Maskirova), where he developed techniques of camouflage, concealment, encryption and deception that were used effectively to circumvent the restraints of the strategic arms control treaties. In 1977, he became Chief of Staff. He was chief of staff when the SS-20 INF missiles were deployed against Europe.

His attitude towards the West is best exemplified by his unprecedented and brazen press conference defending the Soviet action in shooting down the KAL 007 airliner filled with innocent men, women, and children. What Orgarkov did not mention was that on the night of the shoot-down the Soviets were preparing a secret and illegal test believed to be an encrypted flight of the SS-25, a "new type" of ICBM prohibited under the SALT treaties.

Preparations for War

Before Orgarkov became chief of staff, the Soviet Union was divided into 20 small, inefficient "groups of forces" and military districts, each with its own commander. His first move, in 1981, was to create "theaters of military operations" or TVDs, through consolidation. Then in December, 1983, he created three, over-all theater commands above the TVDs. The most important of these theaters, the Western Theater, was organized

of the role of the SS-20s in the Soviet panoply of intermediate range and long range nuclear weapons. He is also keenly aware of the need to remove the Pershing IIs if his doctrine is to be fully implemented.

Changes in Soviet Military Doctrine

Through new force alignments and operational changes, the Soviet Union is constructing a military which they believe to be capable of conducting strategic deep encirclement operations to occupy Western Europe in a new "lightning war". The essence of the strategy is to fight and to win against NATO without resorting to nuclear weapons if possible.

Shortly after Ogarkov became Chief of the General Staff, the new Soviet doctrine for fighting theater war was promulgated. This modern doctrine required the Soviet armed forces to fight and to achieve victory at the conventional level while maintaining a preparedness to preempt enemy use of nuclear weapons.

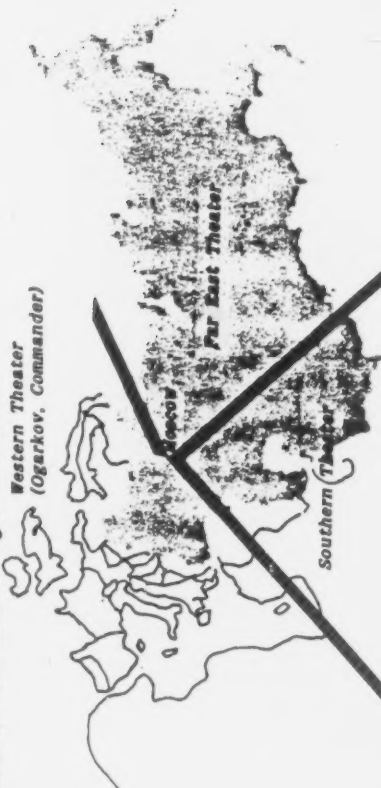
As Chief of the General Staff, Ogarkov was responsible for developing and implementing the strategy, plans, organizational changes, and revisions of Soviet operational art. Examples of fundamental changes and developments under Ogarkov's command include:

-- The resurrection and modification of the World War II mobile group concept now called the operational maneuver group (OMG).

ORGANIZATION OF SOVIET MILITARY DISTRICTS AND GROUPS OF FORCES BEFORE OGARKOV (1977)



REORGANIZATION OF MILITARY DISTRICTS INTO THEATERS OF OPERATION BY OGARKOV (1983)



In his 1985 book, *History Teaches Vigilance*—a book highly praised by official Soviet publications—Ogarkov stresses the importance of increasing the economic potential of the Soviet Union in order to develop the defense capabilities required to counter and to defeat the West.

The expansion of West-East trade by the United States and OECD countries facilitates Marshal Ogarkov's requirements for military modernization in the field of conventional weapons.

Marshal Ogarkov as Supreme Commander of the Western Theater of Military Operations

After he became Supreme Commander of the Western Theater of Military Operations, Ogarkov established at Minsk a permanent headquarters and staff for this wartime entity.

Such an unprecedented step means that the entire operational military force of the Warsaw Pact for peacetime exercises and in wartime is under Ogarkov's command.

Ogarkov is one of the most able military figures in Soviet and in Russian history. Among his achievements he has:

- developed the strategic deep operation
- organized a military force that the Soviets believe can win in a confrontation with the NATO Alliance

-- The interdiction of sea lines of communication.

-- The disruption of command, control, and communications.

-- The destruction of NATO nuclear assets and other elements critical to NATO defense.

The success of Ogarkov's strategic deep operations depends upon the close cooperation of modern naval, ground, and air forces.

Requirement for Sophisticated Conventional Weapons Technology

In late 1984, a new edition of "Taktika" (Tactics), the basic Soviet military text for company and field grade officers, was issued, replacing the 1966 edition. The text reflects Ogarkov's thinking throughout. Less emphasis is given to nuclear weapons while more emphasis is given to combined arms operations and developing initiative in junior officers.

Significantly, superiority is to be achieved through sophisticated conventional weapons technology. The acquisition of such an advanced capability hinges on the ability of the Soviet Union to obtain technology either overtly through normal commercial transactions — or scientific and technical exchanges — with the developed countries of the Free World or through covert means.

-- The introduction of new air assault brigades which along with conventional airborne forces round out Soviet ground force deep strike capability.

-- All Soviet Army divisions, motor rifle and tank, have been transformed into highly mobile combined arms forces in line with the new Soviet emphasis on mobility and independent operation.

-- Increased mechanization of the airborne forces.

-- Integration of helicopters and fixed-wing aircraft into the combined arms team.

-- Integration of naval forces into the theater offensive.

-- Change in the Soviet method of approach marches in order to avoid dispersible munitions. Rather than moving in division columns as in the past, the latest doctrine calls for cross-country movement in battalions and regiments thereby presenting NATO forces with too many moving targets to engage effectively.

The strategic deep operation developed by Ogarkov — the operational maneuver group on a strategic scale — involves:

-- The capture or destruction of NATO political centers.

The consequence of this situation is an asymmetry in intermediate range nuclear missiles. Western deterrent capability through the medium of intermediate range nuclear systems is eliminated while the Soviet Union and the Warsaw Pact retain their intermediate range nuclear capability in the European theater.

This asymmetry is exacerbated by the very significant asymmetry between NATO and Warsaw Pact conventional forces. This conventional force imbalance rebounds to Soviet advantage owing to their massive numerical superiority in armor and in other critical elements of war-fighting capability ground, air, and naval.

In such a situation, the NATO Alliance is dangerously vulnerable from an objective military standpoint. Such vulnerability can be manipulated by the Soviet Union through psychological operations in order to neutralize Western Europe politically and diplomatically. With Western Europe neutralized and Finlandized, the Soviet Union is able to devote its attention and power more fully to the confrontation with its "main enemy", the United States.

-- equipped that force with what it requires to accomplish its mission

-- been assigned the most responsible and critical position in the entire Soviet military, namely, establishment as the Supreme Commander of the Western Theater of Military Operations.

Implications for the INF Treaty

With the removal of the Pershing II missiles from NATO Europe, the Western Alliance loses its most important deterrent system. The Pershing II missile has been the key to deterrence in the European Theater owing to such characteristics as accuracy and promptness which place targets of military value deep within the Soviet Union at high risk.

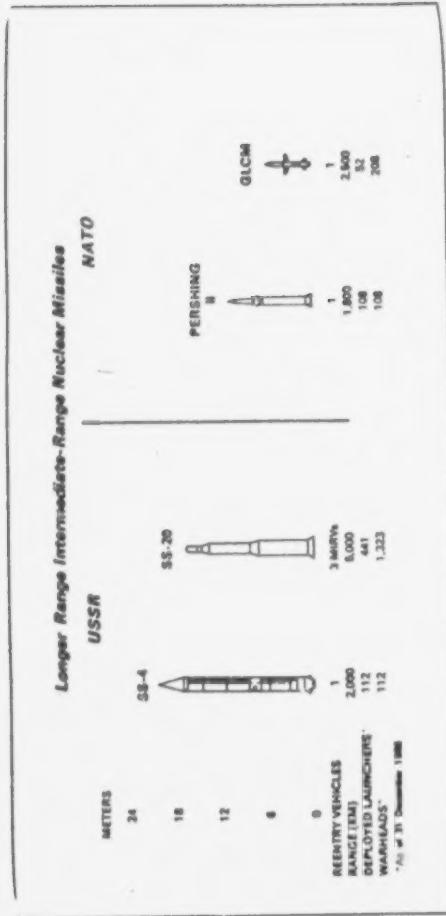
As the INF Treaty currently stands, the Soviet Union does not sustain a parallel loss in its deterrent capability. This is because the Soviet Union 1) may well possess significantly more SS-20 missiles than are accounted for in the treaty, 2) the Soviet Union is developing the variable-range SS-25 as a substitute which will not be controlled by the treaty 3) the SS-25 missile which is not under the treaty can be employed effectively in a theater nuclear mode, 4) the ability of the Soviet Union to violate the terms and spirit of the INF Treaty using SS-25 launchers and garages to accommodate covert SS-20 deployment.

Preparations for War

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Marshal Ogarkov was a key player in the negotiations for SALT I and SALT II. In this photograph taken at the SALT II signing ceremony in Vienna, June 18, 1979, Ogarkov appears at left, with President Carter, center, and Secretary Brezhnev, right.



Militarily Significant Advantages: Can the Soviet Union gain any militarily significant advantages by cheating on compliance with the Treaty?

A high White House official was quoted in the Washington Post as stating that the Soviets would gain "no militarily significant advantages" by cheating on the INF Treaty. In one sense he is right: The Soviets do not have to cheat on the INF Treaty to gain militarily significant advantages; the Treaty itself gives a major strategic advantage to the Soviet Union that alone is worth whatever price they might pay.

Although the NATO INF was deployed for the defense of Western Europe, it also has a parallel role as a deterrent against a Soviet first strike against the United States. A Soviet ICBM has a flight time to the United States of approximately 25 minutes; the Pershing II flight time to Soviet targets is approximately 13 minutes. The speed and pinpoint accuracy of the Pershing II makes it less vulnerable to interceptors. If Soviet attack planning includes a first-strike scenario against the United States, their attack planners can breathe a sigh of relief when the Pershing IIs are gone.

THE REVOLUTION CONTINUES

"In October 1917, we departed the old world and irreversibly rejected it. We are traveling to a new world, the world of Communism. We shall never deviate from this path." [Prolonged and Stormy Applause]

--Mikhail Gorbachev,
November 2, 1978.
Report to the
Central Committee

Gorbachev Attacks Pearl Harbor

On September 29 and 30, 1987, according to reports which appeared in the Washington press, General Secretary Gorbachev and the Chief of the Soviet General Staff, Marshal of the Soviet Union Akhromyev, descended into an underground bunker near Moscow and personally directed an important missile test.

While these reports have been neither confirmed nor denied, it is undeniable that Mr. Gorbachev is the head of the Soviet Defense Council, and the Soviet Defense Council is the ultimate authority over missile testing. As Chief of Staff, General Akhromyev is Secretary of the Defense Council. This is the same General Akhromyev who, hardly more than two months later, was the first Soviet general to be given a tour of the U.S. National Military Command Center at the Pentagon.

The missile involved was the experimental "77-09" ICBM, known in the U.S. as the SS-X-26. The salient points regarding this missile are as follows:

First, the SS-X-26 is the largest and most deadly missile known to man, heavier even than the super-heavy SS-18.

Second, the SS-X-26 is designed to carry 20 highly accurate, megaton-yield, hard-target destroying warheads.

Third, the SS-X-26 is the third "new type" of ICBM, a gross violation of the 1979 SALT II restraints allowing only one "new type."

5. Interceptor Aircraft—Soviet/Warsaw Pact: 2.4 to 1 advantage;

6. Intermediate Range Bombers—Soviet/Warsaw Pact: 6 to 1 advantage.

7. Chemical Decontamination Equipment—Soviet/Warsaw Pact: 25 to 1 advantage.

8. Modern Deliverable Chemical Munitions—Soviet/Warsaw Pact: estimated, 700,000 tons; U.S./NATO, zero.

The Pershing II deterrent was the shield that prevented these imbalances from becoming decisive. In lieu of massive spending for conventional arms, the United States and NATO deployed the INF.

Evolution of Denuclearization

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But what is not usually recognized is that the INF Treaty is only the latest—and most significant—in a long history of actions to denuclearization of Western Europe.

U.S. Nuclear weapons were deployed in Europe beginning in 1952 out of concern for the increased mobilization of Warsaw Pact forces and fears that Stalin was planning to extend Soviet subjugation even beyond the borders of Eastern Europe. The first deployments were "strategic" systems capable of striking into the heart of the USSR. The second set of deployments were tactical systems designed to support NATO ground forces and to offset the Warsaw Pact numerical advantages.

in the fact that Mr. Gorbachev chose December 7, the anniversary of the Japanese Pearl Harbor attack, as the date of his own arrival in Washington to sign a treaty removing the swiftest, surest, and most technologically superior portion of our deterrent against surprise attack. Now that the Soviets have practiced attacking Pearl Harbor themselves, their attack planners are no doubt eager to get the INF Treaty ratified and implemented.

The Advantage in Europe

But it is not just in the over-all strategic balance that the Soviets benefit. The removal of the Pershing II shield leaves Western Europe virtually exposed to Soviet domination, either directly or indirectly.

In conventional forces, the Soviets and Warsaw Pact have an over-all conventional advantage over NATO of at least 3 to 1. The specific comparisons, as computed from unclassified Defense Department estimates, are as follows:

1. Main Battle Tanks—Soviet/Warsaw Pact: 2 to 1 advantage;

2. Heavy Artillery—Soviet/Warsaw Pact: 2.3 to 1 advantage;

3. Armored Personnel Carriers—Soviet/Warsaw Pact: 1.3 to 1 advantage;

4. Tactical Aircraft—Soviet/Warsaw Pact: 1.2 to 1 advantage;

Fourth, the SS-X-26 violates the cap on heavy ICBM throwweight.

Fifth, the SS-X-26 violated the ban on encryption of missile-test telemetry, thus denying the information on flight characteristics supposedly guaranteed to us for the purposes of monitoring compliance.

Sixth, Soviet ship-mounted lasers attacked two U.S. reconnaissance planes monitoring the test, temporarily blinding U.S. personnel and interfering with their reconnaissance by damaging their equipment.

Seventh, Mr. Gorbachev directed the missile in an "over the pole" flight pattern, the first time any such pattern was tested by anybody—since an "over the pole" pattern implies a first strike.

Eighth, the SS-X-26 was being rushed ahead of schedule and tested at a period of its development which might have ended in disaster for its target had there been the slightest malfunction.

Ninth, the target was Hawaii.

Never before had a missile test been aimed at the sovereign territory of another nation. Never before had there been a test of a missile so flagrantly in violation of past arms control agreements. Never before had there been a test of a missile in a first-strike pattern.

Some commentators have noted the irony

Initially, the Western nuclear strategies were, for the most part, simple extensions of the strategies of World War II, with nuclear weapons playing the part of super-large conventional weapons. Soon U.S. military planners recognized that nuclear weapons would have devastating effects on many time-honored concepts, including the sacrosanct service roles and missions. But efforts to modernize strategy bogged down until the Kennedy Administration took office in 1961.

One of the first actions of the new administration was the review and revision in U.S. NATO strategy under the NATO Policy Review Group chaired by Assistant Secretary of Defense Paul Nitze. As revealed in their final report "NATO and the Atlantic Nations Policy Directive," approved by President Kennedy in April 1961, the clear objective was the nuclear denuclearization of Europe.

Actions which were implemented with respect to nuclear deployments in Europe included the following:

- o Removal of U.S. "Davy Crockett" tactical nuclear weapons from Germany;
- o Removal of "Thor" and "Jupiter" IRBMs from Italy and Turkey;
- o Redeployment to the rear of forward-deployed nuclear systems such as artillery, rockets and bombs;
- o Configuration of dual-capable

systems, such as air-defense missiles, in a conventional mode;

- o Installation of Permissive Action Links (PAL), i.e., locks, on all deployed theater nuclear weapons;
- o Shifting of NATO planning to emphasize conventional response;
- o Revision of command and control to emphasize selective release;

o Cancellation of support for the British "Skybolt" air-launched missile;

o Cancellation of support to the French nuclear programs.

Evolution of nuclear policy continued in this direction for political reasons, despite warnings of military planners. In 1977, the Soviet Union began deploying SS-20 forces, and thereby jolted the West into action. In 1979, the decision was made to deploy 106 nuclear forces, triggering a major debate in Europe that was resolved in favor of a minimal deterrent, the Pershing II.

It is noteworthy, however, that the subsequent decisions at Montebello in 1983 hastened, rather than slowed withdrawal of other nuclear weapons. The United States unilaterally decided to withdraw remaining nuclear weapons at a rate of approximately two weapons withdrawn for every Pershing II and ground-launched cruise missile deployed. Today the nuclear weapons left in

Europe—often cited as a nuclear deterrent—are largely short range or zero range (e.g. land mines) nuclear weapons of some value in battlefield conditions, but of small deterrence to Soviet aggression.

The implementation of the INF Treaty completes a major goal of the Soviet Union, the virtual denuclearization of Western Europe.

Advantages of Cheating

The White House official who said that the Soviets would have no militarily significant advantages in cheating was probably thinking of the fact that the Soviets have plenty of other nuclear negatonnage that can be targetted on Europe.

The official stated: "Is there incentive for them to squirrel away 100 [mobile missiles] here and 100 there? I think not."

Actually, even if the redundant Soviet capacity is not considered, there is a great deal of incentive to squirrel away 200 missiles. In all of Western Europe, there are probably not more than 200 militarily significant targets. Each SS-20 has three warheads, each one with a firepower three times greater than the U.S. Poseidon missile. So 600 warheads squirreled away could quite easily take care of Western European targets.

Militarily Significant Advantages

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The SS-20 Numbers Problem

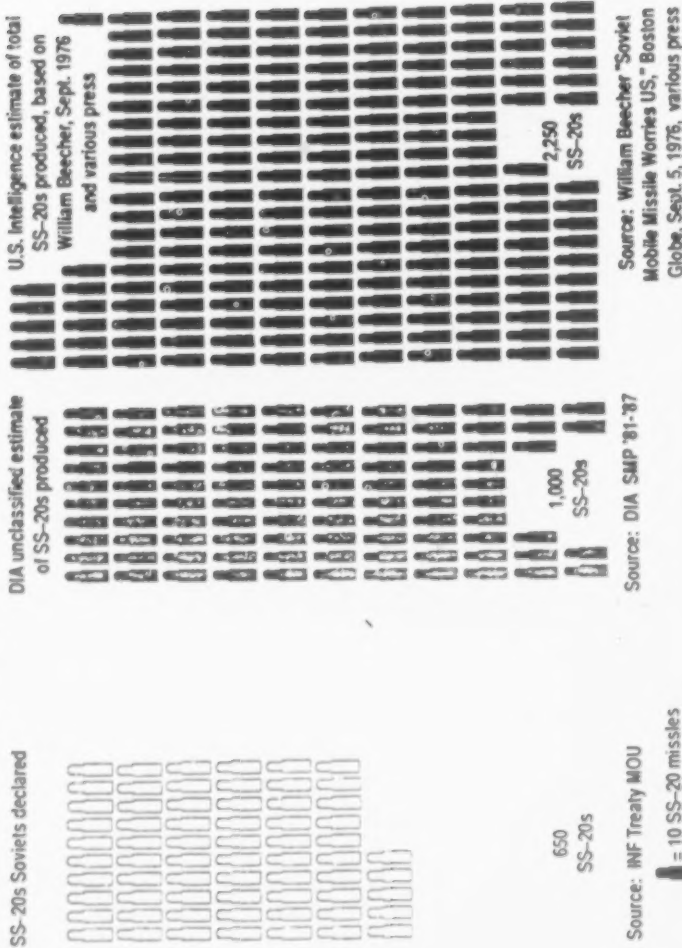
Moreover, the United States does not know how many SS-20s have been produced. Unclassified DIA estimates for years have assumed that the SS-20 force was close to and even over 1,000. Yet the Soviets in the Memorandum of Understanding accompanying the INF Treaty have declared that they have only 650. No satisfactory explanation has been given for the gap of 350 missiles—almost twice as many as supposed by the high White House Official.

Either the missile gap is an intelligence gap on the U.S. side, or the Soviets have given false information in the Treaty's MOU. If U.S. ability to detect and identify SS-20's is off by a factor of 50%, then we can never have any assurance whatsoever of the reliability of our intelligence. If U.S. intelligence is correct, then the Soviets are already violating the Treaty obligations, and we can assume they intend to cheat on a massive scale.

1,000 SS-20's or 2,250 SS-20's

Moreover, the situation may be even worse. Newspaper reports have indicated that some intelligence analysts believe the Soviet SS-20 force could be as high as 2,250. This number is a derived number, not a detected number; but it is based upon some very reasonable assumptions and intelligence information, as reported in the press.

SS-20 PRODUCTION



The Uses of Cheating

If there is an unknown, but extensive, covert production or deployment of SS-20s, what use could they have in the light of the Soviets' already extensive nuclear capacity? Hasn't the SS-20 been superceded by the variable range SS-25, a more modern and more powerful missile in the same family of modular missiles? Why would the Soviets want to keep a covert deployment of obsolescent missiles?

In the first place, the Soviets are notorious for hoarding not only obsolescent weapons, but even obsolete weapons. Once a weapon is produced, they see no reason to destroy it just because something better has been produced. It might come in handy later. Their planning can easily find alternate uses.

There are at least three uses for a covert fleet of SS-20s, despite what Western experts might think of as redundant targeting capacity. Each of these uses could have a tragic, catastrophic effect upon the United States and NATO, in a crisis situation.

These uses include:

1. The Surprise Party—a sudden revelation of covert, massive, over-kill capability to force the United States and NATO to accept decisive geostrategic changes.

William Beecher, "Soviet Mobile Missile Worries US," in the Boston Globe reported that the SS-20 was being produced according to a plan that set a ratio of five reloads for every launcher deployed.

The actual deployment of SS-20 launchers during the five year plan ending in 1980 conformed exactly to Beecher's report, and the next five-year plan followed suit. Thus the construction of SS-20 garages for the deployment of these launchers confirmed important elements of the estimate.

The Soviet numbers in the Treaty's MOU for mobile launcher SS-12s also confirm a high ratio for reloads to launchers. The MOU shows 726 missiles to 115 launchers, a ratio of six to one. Even the MOU numbers for the SS-23s are over two to one, which is under our own unclassified estimates. Other evidence as well confirms that Soviet practice with regard to deployment of mobile missiles is to deploy a high ratio of reloads to launchers—a practice that is exactly in accord with the rationale of constructing mobile systems.

This being the case, it is reasonable to expect the SS-20 to have a reload ratio of 5 to 1, or to estimate conservatively, 3 to 1. Thus the range of SS-20s produced could well extend between 1,340 and 2,250. The 650 declared in the MOU is a number that should excite scepticism.

The basic concept of a mobile missile is to provide not only mobility, but to make the best use of the launching device. The so-called Transporter-Erector-Launcher (TEL) is a gigantic truck that not only carries a missile in its canister, but lifts it into an erect position and fires it from a predetermined survey point. It then has the capability to reload with another missile in its canister, move to another point, and fire.

The essence of the concept, then, is reload capability. There is little point in building an elaborate launch vehicle if it is to be used only once.

The unclassified DIA estimate of close to 1,000 SS-20s is based on the estimate that every launch vehicle would have at least one missile already on it, and at least one more reload, for a 2 to 1 ratio. Thus from an estimate of 441 TELs detected, it was assumed that there would be at least 882 missiles.

However, the 2 to 1 ratio is considered very conservative. Every other Soviet mobile missile system has a much higher ratio, with some going as high as 6 to 1.

Thus the Soviet declaration that they have only 405 TELs and 650 SS-20 missiles—a ratio of about 1 and 1/2 missiles to TELs—is contrary to confirmed assumptions about mobile missile systems.

On September 5, 1976, an article by

Militarily Significant Advantages

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2. Chemical and Bacteriological Warfare—the MIRV warhead is ideal for the strategic dispersal of chemical, bacteriological, and biological agents from a distance that would not contaminate Soviet troops.

3. The "Dome of Light"—a temporary ABM effect, already tested, which could shield the launch of a first strike.

Each of these must be examined in turn.

The Surprise Party

To a great degree the original deployment of the SS-20 was intended to have stunning political effect, rather than military effect. The deployment was so huge, so overwhelming, and so unnecessary that its main purpose was to frighten Europe into adopting nuclear disarmament measures.

This maneuver was almost successful. A "peace campaign" manipulated and supported by Soviet covert action created political turmoil in Europe in the late 1970s. Only the fact that the "peace campaign" was so heavily handed kept it from succeeding. The campaign backfired and encouraged European leaders to seek deployment of the Pershing IIs.

Nevertheless, the political impact of threatened nuclear destruction remains powerful. Once the Pershing IIs are removed, Western Europe will be totally vulnerable to Soviet political pressure. It is not hard

to foresee a scenario which might include the political reunification of Germany under a neutralist regime, one-party systems in other key European countries, and economic integration of the European Community into Comecon on adverse terms.

Should resistance develop, the Soviets could stage the Surprise Party. They could unveil the covert force. The sudden revelation of a covert deployment of SS-20s would have the same kind of political impact that the destruction of Hiroshima and Nagasaki had on Japan. Even though the West might know intellectually that the Soviets already have enough megatonnage to work their will, the Surprise Party would also reveal a level of ruthlessness and deceit that would psychologically sap the will to resist.

Chemical and Biological Weapons

The second use of the SS-20 is as a delivery vehicle for chemical and biological weapons. With biological weapons particularly, it is desirable to separate the target from the invading forces.

We do not know whether the SS-20 has ever been configured in a C/B mode; but then we know very little about the SS-20. We have never seen one. It has been flight-tested with its telemetry encrypted. Our early estimates about its range apparently were wrong. There is no inherent technological reason why the warhead could not be configured for C/B weapons. Finally,

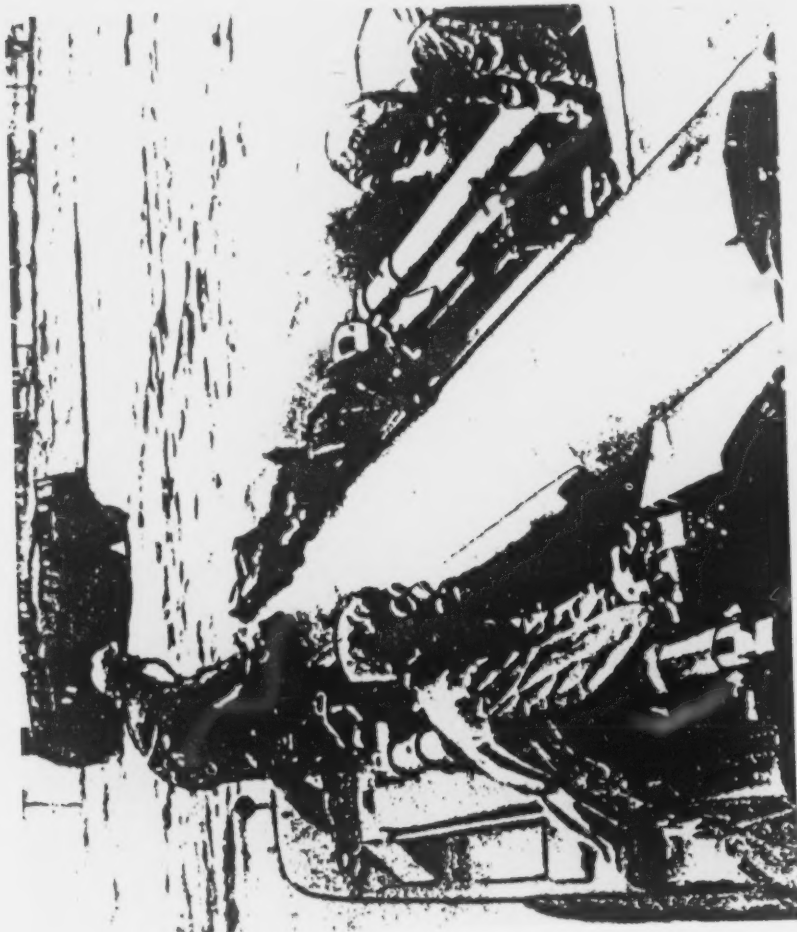
the three-warhead MIRV capability makes it ideal to disperse agents over a given target area.

The Oparkov Doctrine relies heavily on military tactics that will achieve victory without engaging in nuclear war. Since the time of the great Soviet strategist Sokolovsky, Soviet war doctrine has included the concept that a nuclear war is winnable if the steps towards war are accomplished prudently and the strategic components are correctly analyzed. The Soviets consider the rejection of such analysis to be an irrational act. The fact that the West rejects such a concept completely is a critical element crucial to the doctrine of nuclear victory.

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The Oparkov Doctrine contemplates a situation in which the Western horror of nuclear war will be so great as to lead the West to permit wars to occur without escalating to the level of a nuclear holocaust. Just as the horrors of chemical warfare in World War I led many Europeans to believe that war could never occur again, so too, many Westerners believe that the horror of nuclear weapons will make war impossible. From the Soviet point of view, such Western horror merely puts a ceiling on practical escalation, allowing wars to be won by superiority of forces below the ceiling.

The terror generated by the thought of a nuclear holocaust has blotted out the terror formerly inspired by chemical



Soviet military C/B warfare technicians prepare a mobile C/B missile for launch. Launching vehicle is in background.

—Photo Courtesy 800

weapons. The West simply refuses to believe that chemical weapons can ever be used again, and has taken few precautions against them. Thus the Soviets have concluded that the ceiling on escalation provided by nuclear war-fighting capability gives them a significant opportunity to prepare a chemical/biological war without deterrence.

Indeed, if the Soviets felt it necessary to launch a military offensive against Western Europe, the use even of tactical nuclear weapons would reduce the economic infrastructure to ruins. The use of chemical weapons on the other hand would eliminate resistance and leave the infrastructure intact.

Thus, in 1963 the Soviets began a major investment in chemical and biological warfare research, development, test, training, production, and acquisition. These capabilities were to be used because they were effective weapons and because they were seen as substitutes for nuclear weapons in many applications.

Chemical weapons were to be used mainly in combat areas and against

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Militarily Significant Advantages

military-industrial targets. Biological weapons were to be used to paralyze whole regions, even countries, to poison areas where airborne forces might land, and to liquidate the bureaucratic and political elite. Both chemical and biological weapons were to be used for sabotage and by special (spetsnaz) forces.

Special development programs were started to deliver biological weapons from space. Research programs were also expanded in the mid 1960s to take advantage of advancing technology for sophisticated weapons effects, for example, physical and mental incapacitants, drugs and narcotics, mind control, and toxins for water supply sabotage, and so forth.

While very little intelligence is now available on actual capabilities which the Warsaw Pact now has, intelligence does show an expansion in Warsaw Pact activities in chemical and biological warfare beginning in the mid-1960s. It is clear that the Soviets have intended to make major use of chemical weapons in a war with the West, be it in Europe or intercontinental, and that these weapons would encompass a wide variety of agents.

It is equally clear that the Soviets have the capability to wage chemical warfare. The uses that one should envision, which are backed up by intelligence, include use against logistics, military bases of all varieties, urban industrial areas, administration centers, and sensitive

installations such as command posts and air defense or communications/intelligence centers.

Many of these targets would be attacked before the actual "attack" is launched, especially command posts; and the rest would be attacked the instant the attack proper begins, especially in the case of air bases, troop concentrations, and logistics areas. In the latter case, the use of long range means of delivery, mainly missiles, should be anticipated.

The use of older agents such as gas and mustard should be anticipated, but additionally, new and unknown agents should be expected, especially debilitating agents that do not necessarily kill but rather disable, both mentally and physically, the individual targets.

The use of biological agents was also incorporated into the Warsaw Pact operations plans in 1967. At the time, biological agents were viewed as strategic, and chemical as tactical. However, research on biological stressed the development of agents that would cause this distinction to be eroded, for example, the development of rapid acting biological agents.

Biological agents are also especially appropriate as sabotage agents that would make it impossible for a nation to go to war. Such agents, which might be as innocuous as a new flu virus, could be covertly introduced in quantity and disrupt

both political and military operations. They could be very deadly, or they could merely disable. They could be delivered by missile, and developments for this delivery were initiated in 1965, but those uses would have to await the actual start of the war.

The problem with using missiles as long range means of delivery is the assumed warning they would provide. Thus, the use of missiles such as an SS-20 would carry with it a certain warning signature. This however may be misleading. The use of a mobile missile causes problems because the signal can emanate from areas where missiles are not known to be deployed and hence be treated as a false signal.

This would especially be the case if we believed the missiles no longer existed, or if launched from an area that would suggest a different missile and thus a different target. Further, this would be less a problem if the particular warning sensors were disabled as the Soviets plan to do with special sabotage teams (as reported by the Soviet KGB defector in charge of sabotage in Great Britain, Oleg Lylin).

An additional question that one might ask, especially with respect to chemical and biological payloads, is the ease with which a stealth missile could be constructed, aside from the plume. The problem is still different if you hypothesize biological weapons stored in space as described upon command, which was one of the Soviet development objectives in the mid 1960s.

Since we don't know Soviet plans for chemical and biological weapons, but we do know that they consider them an essential part of their strategy, it is reasonable to assume that at least part of a covert SS-20 force might be dedicated to C/B delivery.

After all, the United States closed its last chemical weapon production facility in the late 1960s. The Soviets have maintained production at either biological facilities located at Sverdlovsk, Zagorsk, Omutninsk, Aksu, Pokrov, Penza, and Kurgan. A biological weapons storage facility is located in the Soviet town of Malta. All of these activities are under the control of the 7th Main Directorate of the Soviet Ministry of Defense. With such an active program, it is conceivable that the Soviets would not be including C/B in their attack planning.

The Dome of Light

On October 15, 1985, the Soviet Union conducted a rocket explosion over Finland. According to Aviation Week and Space Technology (April 16, 1986), the explosion was observed and photographed by two amateur photographers who are members of the Finnish Urss Astronomical Association.

According to Aviation Week,

"At 20 minutes past midnight, while they were photographing meteors, one in Turku, southwestern Finland, and other in Jamsa, central Finland, they saw a rocket



ROCKET WITH A BLAZE TOWARD OCTOBER 15, 1985

rising over the eastern horizon. They followed the trail for a few minutes, when the rocket seemed to disappear. A moment later it reappeared and exploded in a ball of fire. The ball spread, then faded in about 10 minutes.

"At about 4 a.m., a bluish cloud

appeared on the eastern horizon. It was believed to be connected with the explosion, and it spread slowly until it appeared to fill nearly half the sky by dawn. Finnish amateur astronomers have observed dozens of launches from Plesetsk, which is about 500 km (310 miles) east of the Finnish border. Rockets cross the horizon at an altitude of

about 20 km. (12.4 miles). This apparently was a barium cloud experiment, which accounts for the bluish cloud."

A few months later, the *Washington Post* reported in commentary by Evans and Novak (December 5, 1986) that the experiment was actually a basic antiballistic defense (ABM) system. The "mysterious 'white light,'" said Evans and Novak, "may be millions of tiny fragments or pellets of steel released from a warhead to destroy incoming missiles." Officials were quoted as saying "it might work—if pinpoint radar targeting of attacking missiles can be achieved with the Kremlin's new triple-tiered [radar] system."

Experts believe that the Soviets have tested both SS-20s and SS-4s in ways which could be interpreted as ABM mode tests for these systems. They have launched many of these missiles towards arctic targets such as Novaya Zemlya. In mid-flight, these missiles and their payload are then mysteriously exploded, creating a phenomenon that has been dubbed "the Dome of Light."

The Dome of Light leaves multiple particles in space and the upper atmosphere, which persist for many hours at high altitudes, condensing clouds of ice particles. These particles reflect over-the-horizon light after the fashion of the Northern Lights. But more important, they create a temporary curtain which shatters incoming missiles through kinetic energy. It is a crude version of an ABM,

THE DOME OF LIGHT
This picture and the picture on the preceding page were taken by Finnish photographers while the Soviets were conducting a rocket test known as "The Dome of Light."



AMTORG MIRA 4 SPACE TELESCOPE/11 April 7, 1986

...it could provide protection for a very few hours.

Such an ABM would not be as effective as the more sophisticated SDI under development by the United States. But as a way to make good use of a large covert store of SS-20s while launching super-heavy ICBMs on a first strike.

Conclusion

Even if we give the Soviets the benefit of the doubt—and it must be remembered that this doubt goes back to treaty violations as early as 1920—the proposed INF Treaty

achieves a major, long-term Soviet strategic objective. Even if we assume that the Soviets have provided the correct data required by the Treaty, and even if we assume that the Soviet Union will abide by the Treaty, the Treaty removes the key elements of the U.S./NATO nuclear deterrent from Europe and puts the nuclear threshold squarely in the American homeland.

But if we assume that past Soviet behavior will continue, there are in fact significant military incentives for the Soviets to cheat—and little disincentive for them not to cheat.

Reduction of Nuclear Weapons: Does the INF Treaty meet the definition of true arms control by providing stability through the reduction and destruction of nuclear weapons on both sides?

Perhaps nothing is more significant in the INF Treaty than paragraph 3 of Article II of the Protocol on Procedures governing the Elimination of the Missile Systems Subject to the Treaty. For here it says quite plainly that no nuclear weapons need be destroyed by either side. It says that both the nuclear warhead and the associated guidance systems can be removed to be used again. Only the 20-year-old rocket motors are destroyed.

Thus the treaty brings about no reduction whatsoever in nuclear arms. It does propose a reduction in intermediate range delivery vehicles, or perhaps even, one might say, "missiles," but the nuclear warhead and guidance system is the essence of what most people think of when they think of missiles.

It has been argued that the United States did not seek the destruction of the warheads. Given the state of our plutonium production, it is said, we cannot afford to dispose of perfectly good fissionable materials—materials which we need to reprocess for use in nuclear weapons not covered by the Treaty. Our Pershing II technology is such that the warheads cannot be used elsewhere without reprocessing.

II. PROCEDURES FOR ELIMINATION AT ELIMINATION FACILITIES

"(3) Prior to a missile's arrival at the elimination facility, its nuclear warhead device and guidance elements may be removed."

Protocol on Procedures Governing the Elimination of the Missile Systems Subject to the Treaty.

Nor did the Soviets want to destroy the nuclear warheads either. The technology of the Soviet weapons is such that the warheads can be used on other missiles, even without reprocessing. Thus it appears not to be in the interest of either party to destroy their own nuclear weapons.

of nuclear arms on each side, it locks in the massive asymmetries that benefit the Soviet Union. The INF Treaty preserves 3,136 warheads for the Soviets, and 931 warheads for the United States. The nuclear warhead preservation ratio is 3.4 to 1 in the Soviet favor.

Ratio of 12-1 in Soviet Favor

But when you look at the ratio of nuclear explosive power preserved by the INF Treaty, the impact is more astonishing. Each Soviet SS-20 carries three warheads, each of which is three times more powerful than the U.S. Poseidon missile. The Treaty preserves 1,231,300 kilotons of explosive power for the Soviets. It preserves 129,550 kilotons for the United States—a ratio of 12 to 1 in the Soviet favor.

A Treaty to Protect Nuclear Arms

The INF Treaty, therefore, is a treaty to protect nuclear arms, not to reduce them. Instead of reducing the level of nuclear arms, it makes sure that the level of nuclear weapons remains the same.

Thus by maintaining the present level

These facts, therefore, should make us ask whether the INF Treaty meets any definition of true arms control. If no nuclear weapons are destroyed, if instead the option to use the nuclear weapons in another mode is preserved, if indeed the nuclear weapons are protected by the INF Treaty, rather than destroyed, then it is

Ratio of Nuclear Warheads Preserved by INF Treaty

SOVIET U.S.

3,136
3.4 to 1
in
Soviet Favor

931

difficult to see how the world will be any better off after the Treaty is implemented.

Furthermore, the world could well be worse off. By preserving the massive asymmetry of Soviet nuclear megatonnage, the Soviets preserve their capability to use that megatonnage against Europe simply by

Ratio of Nuclear Explosive Power Preserved by INF Treaty*

* Kilotons

SOVIET U.S.

1,231,300

About 12 to 1
in
Soviet Favor

129,550

moving it to systems not covered by the Treaty. Soviet variable range systems and long range systems can be used against theater targets even if classified as a strategic weapon system.

The United States has no such option. Once the U.S. nuclear materials are removed from Europe, they are gone from Europe. Even if reprocessed, the nuclear materials could be used only on strategic systems—that is to say, in the over-all strategic confrontation between the United States and Soviet Union. There is no longer any flexible response from European soil that might deter the Soviets.

The net result of this impact is to increase the danger of nuclear war. NATO no longer will have a credible deterrent to Soviet aggression, but the Soviets retain their terrorizing megatonnage to threaten Europe. The only deterrent is one that would not be credible: Would the United States confront piecemeal aggression in Western Europe by triggering a nuclear holocaust with our strategic systems?

The Soviets—and the Western Europeans—may well doubt that we would do so.

The Reagan Criteria for Arms Control

When President Reagan took office, he established three principles to guide future arms control negotiations.

- air-delivered bombs and missiles;
- o Increasing the number of submarine and surface ship delivered missiles;
- o Retargeting ICBMs;
- o Increasing ground-launched cruise missiles (GLCMs—Soviets only);
- o Re-orienting air defense and tactical ballistic missile defense systems.

The Soviets have had a massive effort underway for two decades in air defense missiles, and it would be a simple matter to deploy new missiles or modify existing missiles such as SAM-5, SAM-10, or SAM 14 to provide surface-to-surface ballistic missile capabilities as effective as those outlawed by the proposed INF agreement.

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As far as ICBMs are concerned, it is useful to remember that many ICBMs, such as the SS-11, SS-17, and SS-19, have been tested at theater ranges, even though they are classed as strategic-range weapons, that is to say, over 5500 km.

The INF Treaty outlaws ground-based missiles whose ranges lie in the region 500 to 1000 km and 1000 to 5000 km. However, the lower range of the ICBMs cited lies in the 1000-5000 km. Nevertheless, the Treaty only outlaws those missiles which possess only INF capabilities. If a missile possesses INF capabilities, but also possesses ICBM capabilities, it does not

objective to reach arms control agreements that would lead to lower levels of nuclear arms.

The proposed INF Treaty has as its objective the complete elimination of shorter-range and intermediate-range missiles, including ballistic missiles and (for the United States only) ground-launched cruise missiles (GLCMs). Even if one assumes that verification will be effective—an assumption that yet needs to be examined—the question is whether the elimination of the two classes (shorter and intermediate-range) will lead to reduced levels of nuclear weapons.

There are two immediate problems that prevent this question from being answered either way: First, we do not know the beginning levels for these or other Soviet weapons systems; the range of uncertainty about our ability to estimate Soviet production has been called into question by the numbers declared in this Treaty. Second, we have no way of knowing Soviet plans for their other systems, systems which could "compensate" for the INF systems eliminated.

There are many alternatives by which the level of nuclear weapons could easily remain the same or increase on either or both sides. The Soviets, for example, could choose a different mix of weapons from the following options:

- o Increasing the number of

1. Any agreement would lead to meaningful reductions in armament levels.

2. Any agreement should be equitable and have equal effect on both the Soviet Union and the United States.

3. Any agreement should be effectively verifiable.

Subsequently, following a series of detailed studies of Soviet non-compliance, he added a fourth criterion, as follows:

4. Any agreement should be contingent upon a cessation of Soviet violations and upon Soviet compliance with all existing arms control agreements.

These four criteria are the essence of fairness and safety. They are reasonable and prudent. No one has ever called them into question. Therefore, they should be used as criteria for analyzing the proposed INF Treaty. The first two criteria will be examined in this section; the second two will each be examined in subsequent sections.

Meaningful Reductions

Arms control agreements that do not lead to lower levels of nuclear arms cannot halt the growing nuclear threat. It is not enough to place ceilings on further production; real progress calls for meaningful reductions. Accordingly, President Reagan set as the nation's first

ISSUE
4

Reduction of Nuclear Weapons

war to the European Theater under the Orgarkov Doctrine.

The Pershing II and GLCM deployments complicate Soviet attack planning. The systems are mobile; and the Soviets have to assume that, in a crisis, the NATO INF might be deployed, alert, and prepared to strike. It is unquestionable that the first priority target for the Soviet attack is NATO nuclear forces. Thus attack planning from the Soviet perspective cannot help but be considerably easier if the Pershing IIs and GLCMs can be eliminated in advance.

It is also important to note that the fact that Soviet attack planning exists may be deduced from the massive superiority which the Soviets hold not only in nuclear forces but in conventional weapons as well. The overwhelming concentration of Soviet battle tanks, air support, conventional weapons and troops under readiness is in no way justified by the possibility of a NATO invasion.

Nor does the NATO nuclear INF pose a defensive threat to the Warsaw Pact. It is too small, too limited, too constrained by political command and control problems ever to be used to initiate a war, or to fight a protracted war initiated by the other side. Its size, function, accuracy, and speed allow it to be used only for a swift and sure retaliation. It is in no way a defense, but only a deterrent.

Furthermore, stability cannot be examined only in terms of a nuclear or

In a certain sense the INF Treaty provides equality, to the extent that both sides would be equally constrained from deploying and building intermediate-range missiles. But there is no equality whatsoever if the criterion is equality of capabilities.

In dispensing with the SS-20s, there is no real decrease or significant change in the massive Soviet capabilities to destroy intermediate-range targets. On the other hand, the elimination of the Pershing IIs has a significant impact on U.S./NATO capabilities. The NATO deterrent is already minimal. The principal advantages of the Pershing II include the following:

- o Short time of flight;
- o Survivability through mobile basing;
- o Targeting coverage of the Soviet first echelon forces and strategic targets in the eastern regions of the USSR.

The elimination of these capabilities, of course, is one of the chief reasons the Soviets have sought an INF agreement. Under its terms they give up no capabilities of their own, but eliminate the NATO capabilities they fear most.

In the event of war, it is essential from the Soviet perspective that NATO nuclear capabilities be eliminated as the first and highest priority target. This is important to the Soviet offense, to their defense, and to their desire to limit the

fall within the definition of the systems to be eliminated.

Thus the Soviets could quite legally remove the nuclear weapons from the missiles slated to be destroyed, install them in an increased ICBM arsenal, and maintain exactly the same INF nuclear capability in the European Theater as before.

When these uncertainties are taken into account, the proposal that the INF Treaty might lead to a lesser threat to NATO or to greater stability is without foundation. Of course, from the Soviet standpoint, the INF Treaty would lead to greater stability, since NATO would be helpless to oppose Soviet threats. But from NATO's standpoint, the nuclear threat would remain the same, and the uncertainties would be magnified, and the only balancing element—the Pershing IIs—would be gone. Whether the NATO alliance could survive such a blow is problematical.

Reductions to Equal Levels

SAUT I, SAUT II, and the ABM treaty led to significant reductions in U.S. capabilities, while Soviet capabilities expanded in nearly all respects. Kind of the widespread recognition of this inequality, and of the Jackson Peagan said the SAUT I Treaty, President Reagan said that any new treaty would have to assure equal levels for both parties, and that the United States would not be a party to a treaty whose primary effect was to restrict the United States and not the Soviet Union.

conventional capability. The imbalance in chemical and biological weapons is another factor of instability. In the early 1960s, the Soviets recognized that they did not want to rely solely on the use of nuclear weapons, because of the damage they could do and because they wanted Europe intact, not as a ruin.

Beginning in 1966, the Warsaw Pact operational plans were changed to include the widespread use of chemical and biological weapons as alternatives to nuclear weapons. Simultaneously, the Warsaw Pact offensive and defensive chemical and biological weapons underwent a substantial upgrading. That upgrading has continued to this day, incorporating in the past 15 years the tremendous advances achieved in molecular biology, genetic engineering, and biotechnology.

These potentials magnify even more the disparities between NATO and Warsaw Pact forces.

Soviet Record of Cheating: Does the history of Soviet cheating on arms control treaties make it more likely or less likely that they will cheat on the INF Treaty?

SUMMARY HISTORY OF OFFICIALLY CONFIRMED SOVIET VIOLATIONS OF INTERNATIONAL SECURITY TREATIES SINCE 1917

Official U.S. Government Documentation of Soviet Treaty Violations

Thirty-three years ago, on August 1, 1955, the Senate Committee on the Judiciary filed an important official report on Soviet treaty violations. This report was followed

by similar Senate Judiciary Committee reports on January 1, 1959, and January 1, 1964. The Department of Defense made an Executive Branch official report on Soviet treaty violations on November 5, 1962.

These four official reports covered more than 150 Soviet international security treaty violations from 1917 through 1964.

However, for the next 20 years, there was total, complete silence with regard to Soviet treaty violations.

THE SOVIET RECORD ON SALT

"On January 23, 1984, President Reagan made his first report to Congress on Soviet SALT violations. There have now been seven such reports to Congress, confirming the following numerical tabulation of Soviet violations of SALT and other arms control treaties:

1. SALT I ABM Treaty--now 10 confirmed violations;
2. SALT II Treaty--6 confirmed violations;
3. Limited Test Ban Treaty--over 30 confirmed violations;
6. Biological Warfare Convention--multiple confirmed violations;
7. Geneva Protocol on Chemical Weapons--multiple confirmed violations;
8. Kennedy-Khrushchev Agreement--multiple confirmed violations."

--for further details, see text.

On January 23, 1984, that official, U.S. Government silence ended with President Reagan's first report to Congress on Soviet SALT Violations. That first report established Ronald Reagan as the Soviet President officially to accuse the Soviet Union of violating SALT treaties.

It was a historic report, because it broke the 20 year silence from official Washington on Soviet violations of international security treaties.

Since that January 23, 1984 Presidential Report to Congress on Soviet SALT Violations, there have been six more, for a total of seven official reports to Congress on Soviet SALT cheating. These reports establish a still-expanding pattern of over 50 Soviet violations of SALT and other arms control treaties.

These seven Reagan Administration reports, together with the previous four 1955-1964 reports from both the legislative and the executive branches, are of significance for U.S. security and world peace. Without Soviet compliance with arms control and international security treaties, there can be no order in international relations and no reliable security

March 20, 1945, the U.S.S.R. denounced this pact, and began a campaign to secure control of the Black Sea straits.

6. On August 31, 1926, the Soviet Union concluded a nonaggression pact with Afghanistan. **THE SOVIET VIOLATION:** On June 14, 1946, the U.S.S.R. forced Afghanistan to cede the border territory of Khatla.

7. On September 28, 1926, the Soviet Union made a nonaggression pact with Lithuania, later extending the agreement through 1945. **THE SOVIET VIOLATION:** On June 15, 1940, Soviet troops invaded Lithuania. On August 8, 1940, Lithuania was annexed by the Soviet Union.

8. On September 27, 1928, the Soviet Union adhered to the Kellogg-Brand pact for the renunciation of war. **THE SOVIET VIOLATION:** The Soviet Union violated this pledge by their 1939-40 invasions of Poland, Lithuania, Latvia, Estonia, Romania, and Finland.

9. On January 21, 1932, the U.S.S.R. agreed to a nonaggression pact with Finland. **THE SOVIET VIOLATION:** On November 30, 1939, Soviet military forces invaded Finland.

10. On February 5, 1932, the Soviet Union signed a nonaggression pact with Latvia. **THE SOVIET VIOLATION:** On June 16, 1940, Soviet troops invaded Latvia.

11. On May 4, 1932, the Soviet Union

Georgian Republic, pledging no interference in Georgia's internal affairs. **THE SOVIET VIOLATION:** On February 11 and 12, 1921, Soviet troops invaded Georgia, in a step leading to the absorption of the Republic into the U.S.S.R.

2. On March 16, 1921, in a trade agreement with Britain, the Soviet Union pledged not to engage in propaganda in Britain. **THE SOVIET VIOLATION:** On May 26, 1927, Britain ended the agreement because of Soviet violations, including Soviet failure to stop propaganda inside Britain as promised.

3. On June 5, 1922, the Soviet Union concluded a friendship agreement with Czechoslovakia. **THE SOVIET VIOLATION:** On June 29, 1945, the U.S.S.R. compelled Czechoslovakia to cede the Carpatho-Ukraine to the Soviet Union.

4. On December 12, 1943, the U.S.S.R. and the Czech Government-in-exile signed a treaty of friendship and mutual assistance. **THE SOVIET VIOLATION:** On February 25, 1948, the Czechoslovakian Government was forced to accept a Communist ultimatum as the Soviet Union completed arrangements to force the country into its satellite empire. The Soviet ultimatum compelled the appointment of a cabinet of Moscow followers, and it climaxed the Soviet postwar drive to absorb the once-independent Czechoslovakia.

5. On December 17, 1925, the U.S.S.R. signed a nonaggression and neutrality pact with Turkey. **THE SOVIET VIOLATION:**

arrangements not wholly based on military might.

In sum, now there is a total of eleven official U.S. Government reports to Congress confirming over 200 Soviet international security treaty violations. These official reports establish the fact that the Soviets always have created on their solemn legal commitments to comply with international security treaties.

Soviet noncompliance with treaties will inevitably increase the risk of war. That is why the chief American arms control negotiator in Geneva, our distinguished Ambassador Max Kampelman, himself stated recently that "it is essential in our negotiations in Geneva that we highlight the issue of Soviet violations of existing arms control agreements, even though they will yell like stuck pigs."

But as Lenin stated in 1916, "every peace program is a deception...unless its principal object is...the revolutionary struggle."

Soviet Violations 1920 Through 1960

The most important Soviet violations of international security treaties between 1920 and 1960, as summarized from the official 1962 Defense Department report, are as follows:

1. On May 7, 1920, the new Soviet regime signed a treaty with the independent

SOVIET VIOLATION: The Soviet Union refused to withdraw its troops from Iran at the end of World War II.

20. On February 4-11, 1945, at the Yalta Conference, the U.S.S.R. agreed on various postwar measures, including adoption of a resolution that the liberated peoples of Europe should have the opportunity to solve their economic problems by democratic means. **THE SOVIET VIOLATION:** In violation of this agreement stands the U.S.S.R.'s record of domination in Bulgaria, Romania, Poland, East Germany, Hungary, and Czechoslovakia, and other countries which were forced into postwar roles as satellites of the Soviet Union.

21. On February 11, 1945, the U.S.S.R. at the Yalta Conference, agreed to a declaration that the Polish provisional government "shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot." **THE SOVIET VIOLATION:** On January 5, 1947, the Soviet Union refused to participate in the meeting with the United States and Britain to secure compliance with the 1945 agreement pledging free elections in Poland.

22. On April 11, 1945, the U.S.S.R. signed a 20-year treaty of friendship, mutual aid, and cooperation with Yugoslavia. **THE SOVIET VIOLATION:** On September 29, 1949, the U.S.S.R. denounced this agreement.

23. On June 14-18, 1945, President Truman

signed a nonaggression pact with the Republic of China. **THE SOVIET VIOLATION:** On October 2, 1940, the U.S.S.R. broke relations with the Republic of China, after recognizing the Communist Chinese regime it helped to eventually gain power in 1948.

17. On July 30, 1941, the U.S.S.R. concluded an agreement with the Polish Government-in-exile, pledging mutual aid and cooperation. **THE SOVIET VIOLATION:** On April 28, 1943, the U.S.S.R. broke its relations with the Polish Government-in-exile, on the pretext of the Polish request for a Red Cross investigation of the Katyn Forest Massacre.

18. On September 24, 1941, the Soviet Union pledged adherence to the Atlantic Charter, which provided that agreeing countries seek no aggrandizement, that the countries desired no territorial changes not made with the freely expressed wishes of the people concerned, and that they respected the right of all peoples to choose their own government. **THE SOVIET VIOLATION:** Against these premises stands the Soviet Union's record of occupation and domination of Romania, Estonia, Latvia, Lithuania, Czechoslovakia, Tannu Tuva, Afghanistan, territory, Hungary, East Germany, Albania, Bulgaria, Poland, North Korea, and Mongolia.

19. On January 29, 1942, the Soviet Union, with Iran and Britain, signed a treaty of alliance, providing for the military use of Iranian territory only until the end of military operations against Germany. **THE**

pledged nonaggression in an agreement with Estonia. **THE SOVIET VIOLATION:** On June 16, 1940, Soviet military forces invaded and occupied Estonia.

12. On July 25, 1932, the Soviet Union signed a nonaggression pact with Poland. **THE SOVIET VIOLATION:** On September 17, 1939, Soviet troops invaded Poland.

13. On May 8, 1934, the U.S.S.R. and Poland extended their nonaggression pact for ten years. **THE SOVIET VIOLATION:** On September 29, 1939, the U.S.S.R. signed an agreement with Nazi Germany to partition Poland.

14. On June 9, 1934, the U.S.S.R. agreed to recognize Romania, and to guarantee her sovereignty. **THE SOVIET VIOLATION:** On June 27, 1940, the Soviet army invaded and occupied the Romanian provinces of Bessarabia and Northern Bukovina.

15. On September 15, 1934, the U.S.S.R. entered the League of Nations, pledging thereby "the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another." **THE SOVIET VIOLATION:** On August 23, 1939, the U.S.S.R. made a treaty with Nazi Germany, termed "a joint conspiracy" to deprive Poland, Estonia, Latvia, Lithuania, Finland, and Romania of their independence and territorial integrity.

16. On August 31, 1937, the Soviet Union

and Premier Stalin agreed, in an exchange of letters, to "free access by air, road, and rail, from Frankfurt and Bremen to Berlin for U.S. forces." **THE SOVIET VIOLATION:** From April 1, 1948, to May 12, 1949, the Soviet Union imposed the Berlin Blockade by severing all land and water routes between Berlin and West Germany. The Western Allies supplied Berlin by airlift. In March, 1962, the Soviet Union harassed flights by Allied airplanes between Berlin and West Germany.

24. On July 17 to August 2, 1945, at the Potsdam Conference, the U.S.S.R. agreed that there should be uniform treatment of the German people throughout Germany. **THE SOVIET VIOLATION:** East Germany today continues to be a rigidly controlled Soviet satellite. Its people have been denied free elections, have been isolated from the people of West Germany, and have been victimized by the same kind of regimentation, police rule, and economic restrictions imposed on the people of the Soviet Bloc states in Europe.

25. On August 14, 1945, the Soviet Union entered into a treaty with the Republic of China, containing these pledges: "Each high contracting party undertakes not to conclude any alliance and not to take any part in any coalition directed against the other high contracting party...the treaty comes into force immediately...and shall remain in force for a term of 30 years." **THE SOVIET VIOLATION:** On February 14, 1950, these pledges were broken when the U.S.S.R. made a

new agreement with the Communist Chinese regime it had helped to create. The Soviets did not even bother to change the basic wording. The new treaty also pledges: "Both high contracting parties undertake not to conclude any alliance against the other high contracting party and not to take part in any coalition or actions or measures directed against the other high contracting party...The present treaty will be valid for 30 years."

26. On March 10, 1947, the Soviet Council of Ministers, meeting in Moscow, agreed that all German prisoners of war should be repatriated by December 31, 1948. **THE SOVIET VIOLATION:** On August 3, 1955, the Soviets furnished the West German Red Cross with data on the health and whereabouts of only 20 of the approximately 14,000 Germans known to be still held in the U.S.S.R.

27. On May 7 and June 20, 1949, Four Power Agreements of New York and Paris guarantee the United States, British, French, and Soviet joint control of Berlin, all access routes to and from the city, and freedom of movement within the city. **THE SOVIET VIOLATION:** On September 20, 1955, the U.S.S.R. unilaterally transferred Soviet control over all access routes to and from Berlin to the East German regime.

28. On July 27, 1956, the military armistice was established between the United Nations command and opposing Communist forces of North Korea and China, assisted by the U.S.S.R. The Armistice Agreement

pledged signers to "cease introduction into Korea of reinforcing military personnel." **THE SOVIET VIOLATION:** On July 11, 1956, the United Nations command detailed a long list of armistice agreement violations by Communist parties. On May 6, 1957, the U.N. command, in another series of official complaints, charged that the Communists had sent troops into Korea's demilitarized zone six times in a period of less than 4 months.

29. On January 14, 1956, the U.S.S.R. signed an agreement with Yugoslavia, pledging \$110 million in credits for industrial construction. On August 4, 1956, the U.S.S.R. pledged an additional grant of \$175 million, bringing the total to \$285 million. **THE SOVIET VIOLATION:** On May 28, 1958, Yugoslav sources disclosed that the Soviet Union had postponed for five years the grant to Yugoslavia amounting to \$285 million. This represented an attempt to retaliate against Yugoslavia for its refusal to accept the Soviet Communist Party's ideological leadership.

30. On October 19, 1956, the U.S.S.R.-Japanese joint declaration pledged the Soviet Union to refrain from interference in Japan's internal affairs. **THE SOVIET VIOLATION:** In 1958, during the weeks preceding the Japanese elections of May 22, the Soviets beamed radio propaganda at Japan violently opposing the election of Premier Kishi's government. Between 1959 and 1960, the U.S.S.R. threatened Japan with the possibility of nuclear war if Japan ratified the U.S.-Japan security treaty, signed January 19, 1960.

SOVIET SALT VIOLATIONS

On January 23, 1984, President Reagan made his first report to Congress on Soviet SALT violations. There have now been seven such reports to Congress, confirming the following numerical tabulation of Soviet violation of SALT and other arms control treaties:

1. SALT I ARM Treaty—now 10 confirmed violations;
2. SALT I Interim Agreement—5 confirmed violations;
3. SALT II Treaty—now 25 confirmed violations;
4. Limited Test Ban Treaty—over 30 confirmed violations;
5. Threshold Test Ban Treaty—over 24 probable violations;
6. Biological Warfare Convention—multiple confirmed violations;
7. Geneva protocol on Chemical Weapons—multiple confirmed violations;
8. Kennedy-Kruscheyev Agreement—multiple confirmed violations.

In addition, long before SALT began in 1969, the Soviets violated two significant arms control treaties, one in the 1920's, which even entailed on-site inspection (The Soviets collaborated with the Germans in violating the Versailles Treaty), and another in the late 1940's (on demilitarization in Eastern Europe). Soviet authorities on international law have candidly stated their view of treaty compliance: "those institutions of

international law which can facilitate the accomplishment of the stated tasks of Soviet (i.e. Marxist-Leninist) foreign policy are recognized and applied in the USSR; those which contradict these aims in any way is rejected.

According to an official U.S. State Department Soviet Affairs Note dated August 10, 1959:

"Few nations can match the U.S.S.R. in vociferous protestations of loyalty to international obligations! However, such declarations which are typical of Soviet propagandists and scholars alike—diverge widely from Soviet practice. In the years since the Bolshevik Revolution the Soviet government, while consistently accusing others of bad faith in international dealings, has not hesitated to violate its own treaty obligations when such actions appeared to be in their best interest. The history of the last 40 years provides numerous examples of deliberate treaty violation by the Soviet regime...The U.S.S.R. has disregarded treaty provisions inconvenient to itself, has unilaterally denounced conventions to which it is a party, has threatened abrogation as a means of intimidation, and has on several occasions attacked fellow signatories to treaties of friendship and nonaggression."

The implications of Soviet non-compliance were stated by President Reagan in his June 1985 report to the Congress on SALT II violations. The

President stated, "...this pattern of Soviet non-compliance raises fundamental concerns about the integrity of the arms control process, concerns that—if not corrected—undercut the integrity and viability of arms control as an instrument to assist in ensuring a secure and stable future world." The President continued, "...we have made it absolutely clear that we expect the Soviet Union to take positive steps to correct their noncompliance and to resolve our compliance concerns in order to maintain the integrity of existing agreements and to establish the positive environments necessary for the successful negotiation of new agreements."

On March 10, 1987, the President stated in his sixth report to Congress on Soviet SALT violations that: "If we are to enter agreements of this magnitude and significance...cheating is simply not acceptable." And the President added in a speech on October 28, 1987, that: "As you know, the Soviets have an extensive record of violating past arms control agreements..." President Reagan added in a speech on November 18, 1987: "I cherish no illusions about the Soviets...for them, past arms control treaties were like diets. The second day was always the best, for that's when they broke them."

Detailed List of Soviet Arms Control Treaty Violations

We must finally turn to a summary of Presidential confirmed Soviet SALT and other arms control treaty violations.

Issue
5

Soviet Record of Cheating

intercontinental operating capability;
 14. Probable refueling probe, actually widely detected, increasing intercontinental operating capability;
 15. Production of more than thirty Backfire bombers per year, for an estimated five years, making at least more than an estimated 12 extra illegal Backfires produced.

E. Camouflage, Concealment, Deception

16. Expanding pattern of Camouflage, Concealment, and Deception (Maskirovka), deliberately impeding verification.

F. Encryption

17. Total encryption of ICBM, SLEM, and all other missile telemetry.

G. Launcher-ICBM Missile Relationship

18. Reported probable concealment of the relationship between the SS-24 missile and its mobile ICBM launchers, and confirmed concealment of the relationship between the SS-25 missile and its mobile ICBM launchers.

H. SS-16

19. Confirmed concealed deployment of 50 to 200 banned SS-16 mobile ICBM launchers at the Plesetsk test range, now reportedly probably being replaced by a similar number of banned SS-25 mobile ICBM launchers. SS-16's replaced at Plesetsk are unlocated, and are now probably deployed covertly.

limit of 2,504—the Soviets have long been at least 75 to 600 SNOV's over even the 2,504 number only they had when SALT II was signed in 1979, thus illustrating the fundamental inequality of SALT II. The Reagan Administration stated in September, 1987: "The Soviet Union continues to exceed the de facto SALT II overall Strategic Nuclear Delivery Vehicles (SNOV's) ceiling of 2,504. Their ongoing deployment of SS-X-25 ICBM launchers, TU-95 Bear H Bombers, and SLEM launchers carried by Delta IV and Typhoon submarines, plus the presence of SALT II-accountable SS-X-24 ICBM launchers and Blackjack bombers results in the Soviets exceeding the SNOV limit by about 25. The Soviets have not compensated adequately for these new weapons, primarily because insufficient numbers of older Bison bombers and SS-11 ICBM silos have been dismantled." The CIA and ACDA also stated in October, 1987, that the number of Soviet SNOV's "remains greater than the 2,504 SNOV's recognized as permitted by SALT II."

C. SS-N-23 SLEM

8. Heavy throw weight prohibited (conclusive evidence);
 9. Development since about 1975;
 10. Flight testing (irreversible);
 11. Deployment on Delta IV and III Class submarines;
 12. Total encryption of telemetry.

D. Backfire Intercontinental Bomber

13. Arctic basing, increasing already

I. Presidentially Confirmed Expanding Pattern of Soviet SALT II Violations—Total of 25

President Reagan recently reported to Congress that:
 "A number of (Soviet) activities involving SALT II constituted violations of the core or central provisions of the Treaty frequently cited by proponents of SALT II as the primary reasons for supporting the agreement...In no case where we determine that the Soviet Union was in violation (i.e. of SALT II and SALT I) did they take corrective action."

A. SS-25 Mobile ICBM—prohibited Second New Type ICBM

1. Development since about 1975;
 2. Flight-testing (irreversible) since February, 1983;
 3. Deployment since 1985—over one hundred concealed mobile launchers, "direct violations";
 4. Prohibited rapid-refire capability—double force;
 5. RV-to-Throw-Weight Ratio (and doubling of throw-weight over old SS-13 ICBM)—probable covert SS-25 2 or 3 MIRV capability—"direct violation", plus reporting testing of 3 MIRV SS-25;
 6. Total encryption of SS-25 telemetry, "direct violation."

B. Strategic Nuclear Delivery Vehicles

7. De facto Strategic Nuclear Delivery

accurate and unclassified as of October 1987: "Current information indicates that the Soviets are still over their 1,200 sublimit of SALT II, although the same information indicates that the Soviets could come into compliance at any time."

This confirmed Soviet MIRV missile deployment above the 1,200 MIRV missile sublimit is the 23rd confirmed Soviet SALT II violation.

And the 24th confirmed Soviet SALT II violation is the Soviet deployment of now over 50 SS-24 rail-mobile MIRVed ICBMs in violation of the 820 MIRV ICBM sublimit.

Finally, the CIA has publicly warned that, in the event that Soviet SALT II "Break Out" could be confirmed, the U.S. should consider that the Soviets are also violating the third SALT II sublimit—1,320 MIRVed missiles and heavy bombers equipped with long-range cruise missiles. Thus, because the 24 confirmed Soviet SALT II violations clearly constitute Soviet Break Out from SALT II, the Soviets must also be considered to be violating the 1,320 sublimit.

This would make the total of confirmed Soviet SALT II violations 25.

The Soviets reportedly told the U.S. arms negotiators in Geneva in late 1983 that they intended to exceed the SALT II sublimits of 820, 1,200, and 1,320, which they are now confirmed to be doing.

probably deployed more than 50 concealed SS-24 rail mobile MIRVed ICBM launchers. First deployment of this missile was actually confirmed to President Reagan at the Iceland Summit on October 11, 1986, by Soviet Leader Gorbachev himself.

The Reagan Administration confirmed on August 7, 1987, that: "The Soviet Union has exceeded the SALT II sublimit of 1,200 permitted MIRVed SLBM's when the fifth Typhoon submarine recently began sea trials. Moreover, some SS-X-24 MIRVed ICBM rail-mobile launchers should now be accountable under the SALT II sublimit on MIRVed ICBM's. It appears that the Soviets have not yet compensated for any of the SALT II II accountable SS-X-24 launchers. Therefore, the Soviets may also have exceeded the SALT II sublimit of 820 MIRVed ICBM launchers."

The Reagan Administration later in September, 1987, also confirmed the following statement to be accurate and unclassified at that time: "The fact that the Soviet Union has exceeded the SALT II sublimit of 820 MIRVed ICBM's with their SS-24 deployment is now clear. Moreover, the Soviets have clearly exceeded the SALT II sublimit of 1,200 MIRVed ICBMs and MIRVed SLBMs. The Soviet Union has not compensated for their SS-24 deployment or for their Typhoon and Delta IV submarine deployments exceeding the SALT II sublimits."

The Reagan Administration also confirmed the following statement to be

I. Falsification of SALT II Data Exchange

20. Operationally deployed, concealed SS-16 launchers not declared;
21. AS-3 Kangaroo long-range air launched cruise missile range falsely declared to be less than the 600 kilometer range limit and therefore was not counted, even though its range was at least 650 kilometers.

J. Excess MIRV Fractionation

22. According to press reports, the current National Intelligence Estimate states that the 308 SS-18 super-heavy ICBMs are deployed with 14 warheads each, adding 1,232 Soviet warheads.

23. According to press reports, the Soviet-Super-Super heavy SS-X-26 (the follow-on to the SS-18) is now being flight-tested on the polar trajectories simulating first strike attacks aimed at Pearl Harbor—sovereign U.S. territory, and its deployment is being accelerated in converted SS-18 silos. This Soviet flight-testing and accelerated deployment of the even heavier throw-weight follow-on to the super heavy SS-18 ICBM violates the SALT II absolute ceiling on SS-18 throw-weight. This new super-super heavy ICBM, the SS-X-26, is also being tested with more RV's than the number carried on the SS-18. This development certainly will result in further excess MIRVing of the SS-18 class of missiles.

Additionally, the Soviets have now



II. Presidentially Confirmed Expanding Pattern of Soviet Violations of the SALT I Interim Agreement—5 Violations

1. Soviet deployment of the heavy SS-19 ICBM and the medium SS-17 ICBM to replace the light SS-11 ICBM was a circumvention defeating the object and purpose of the SALT I Interim Agreement. Article II of the Interim Agreement prohibited heavy ICBMs from replacing light ICBMs. This violation alone increased the Soviet first strike threat by a factor of six.
2. Soviet deployment of modern SLBM submarines exceeding the limit of 740 SLBM launchers, without dismantling other older ICBM or SLBM launchers, which in March 1976, the Soviets actually admitted was a violation.
3. Soviet camouflage, concealment, and deception deliberately impeded verification.
4. Circumvention of SALT I by deploying SS-N-21 and SS-NX-24 long-range cruise missiles on converted V-Class SLBM submarines, which "is a threat to United States and allied security similar to that of the original SSBNs."
5. "The United States judges that Soviet use of former SS-7 ICBM facilities in support of the deployment and operation of the SS-25 mobile ICBM is a violation of the SALT I Interim Agreement."

AS Defense Secretary Weinberger stated

on December 11, 1986: "SALT I and SALT II have been largely irrelevant to the Soviet military buildup. Both agreements merely codified and authorized large increases."

III. Presidentially Confirmed Expanding Pattern of Soviet SALT I ABM Treaty Break Out Violations—10 Violations

1. "The U.S. Government reaffirms the conclusion in the March 1987 Report that the new large phases-array radar under construction at Krasnoyarsk constitutes a violation of legal obligations under the Anti-Ballistic Missile Treaty of 1972 in that in its associated siting, orientation, and capability, it is prohibited by this Treaty. Construction continued in 1987. The absence of credible alternative explanations have reinforced our assessment of its purpose. Despite U.S. requests, no corrective action has been taken. This and other ABM-related Soviet activities suggest that the U.S.S.R. may be preparing an ABM defense of its national territory." This judgment is "based on conclusive evidence," and this is the clearest evidence of Soviet violation of the ABM Treaty. Thus the siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM Battle Management Radar "directly violates" three provisions of the SALT I ABM Treaty. The Soviets have even privately admitted this violation to themselves. The CIA has stated recently that "The United States is aware that, over the last several years, Soviet officials have indicated that the Krasnoyarsk radar is a violation of the ABM Treaty." During 1987, both houses of the Congress, the U.S.

Senate and the U.S. House of Representatives, have each voted overwhelmingly and almost unanimously in agreement with President Reagan that the Krasnoyarsk Radar is a clear violation of the ABM Treaty. The Senate also voted 93 to 2 that the Krasnoyarsk violation was "an important obstacle" to the Senate's advice and consent to the ratification of the new INF Treaty.

2. "The U.S. Government finds that the U.S.S.R.'s activities with respect to moving a Flat Twin ABM radar and a Pawn Shop van, a component of an ABM system, from a test range and initiating deployment at a location (i.e. Gornel) outside of an ABM deployment area or ABM test range constitutes a violation of the ABM Treaty."

This and other ABM-related Soviet activities suggest that the U.S.S.R. may be preparing an ABM defense of its national territory." In his December 1, 1987, seventh report to Congress on Soviet SALT violations, President Reagan referred for the first time to "the new violation in the deployment of the Flat Twin and Pawn Shop observed at Gornel . . ."

3. Over 100 ABM-mode tests of Soviet SAM-5, SAM-10, and SAM-12 surface-to-air missiles and radars are "highly probable violations of the SALT I ABM Treaty. Two high Soviet officials have even admitted that their SAMs have been designed, tested, and deployed with a prohibited ABM capability." The U.S. Government reaffirms the judgment made in the March 1987 Report that the evidence of Soviet actions with respect to concurrent

6. Continuing Soviet development of mobile Flat Twin ABM radars from 1975 to the present, is a violation of the prohibition on developing and testing mobile ABM's. The Soviets evidently are now mass producing the mobile ABM-3 system for rapid nationwide deployment.

7. Soviet ABM rapid reload capability for ABM launchers is a serious cause for concern. The State and Defense Departments state that the Soviets "may" have a prohibited reloadable ABM system.

8. Soviet deliberate camouflage, concealment, and deception activity impedes verification.

9. Confirmed Soviet falsification of the deactivation of the ABM test-range launchers is a violation of the ABM Treaty dismantling procedures.

10. Soviet rapid relocation without the required prior notification of a Flat Twin ABM radar, creating the additional Kamchatka ABM test range, not only confirms the illegal mobility of the Flat Twin radar and ABM-3 system, but is a violation of the ABM Treaty.

As Defense Secretary Weinberger stated on December 11, 1986: "There has been the recent discovery of three new Soviet large phased-array radars of this type [i.e. the Pechora-Krasnoyarsk Class]—a 50 percent increase in the number of such radars. These radars are essential components of any

radars) and the disposition of these radars closely resembles the design of the US Safeguard ABM program." The U.S. Safeguard program was designed to be a 12 site, nationwide ABM defense. President Reagan has also stated that "this is a serious cause for concern." The Secretary of Defense has testified to the Senate that the "Soviets have some nationwide ABM capability" already. In his December 1985 report to Congress on Soviet SALT violations, President Reagan stated that a unilateral Soviet ABM defense: "would have profound implications for the vital East-West balance. A unilateral Soviet territorial ABM capability acquired in violation of the ABM Treaty could erode our deterrent and leave doubts about its credibility." The CIA has recently stated that: "In totality, these (Soviet ABM) activities provide a strong basis for concern that the U.S.S.R. might have an integrated plan for an ABM defense of its national territory, and might be working toward it." Finally, as the Defense and State Department's White Paper on Soviet strategic defense programs of October 1985 confirmed: "The aggregate of current Soviet ABM and ABM-related activities suggests that the U.S.S.R. may be preparing an ABM defense of its national territory—precisely what the ABM Treaty was designed to prevent."

5. The mobility of the Soviet ABM-3 system is a violation of the ABM Treaty's prohibition on mobile ABM's.

operations is insufficient fully to assess compliance with Soviet obligations under the ABM Treaty . . . In recent years, we have gathered an increased amount of evidence on activities that could be associated with Soviet concurrent operations . . . the Soviet Union has conducted tests that have involved air defense radars in ABM-related activities. The large number, and consistency over time, of incidents of concurrent operation of ABM and SAM components, plus Soviet failure to accommodate fully U.S. concerns, indicate the U.S.S.R. probably has violated the prohibition on testing SAM components in an ABM mode. In several cases, this may be highly probable. This and other such ABM-related activities suggest that the U.S.S.R. may be preparing an ABM defense of its national territory."

4. There is strong evidence that Soviets may be developing and deploying a territorial, and especially a nationwide, ABM defense, which violates the ABM Treaty ban on developing even a base for a nationwide ABM defense. "The U.S. Government reaffirms the judgement of the March 1987 Report that the aggregate of the Soviet Union's ABM and ABM-related actions (e.g., radar construction, concurrent testing, SAM upgrade, ABM rapid reload, ABM mobility, and deployment of ABM components to Gornell) suggests that the U.S.S.R. may be preparing an ABM defense of its national territory. Our concern continues . . . The redundancy in coverage provided by these new radars (i.e. the 9 Pechora-Krasnoyarsk Class



large ABM deployment. The deployment of such a large number of radars [i.e. nine], and the pattern of their deployment, together with other Soviet ABM-related activities, suggest that the Soviet Union may be preparing a nationwide ABM defense in violation of the ABM Treaty. Such a development would have the gravest implications on the United States-Soviet Union strategic balance. Nothing could be more dangerous to the security of the West and global stability than a unilateral Soviet deployment of a nationwide ABM system combined with its massive offensive missile capabilities."

IV. Presidentially Confirmed Expanding Pattern of Soviet Violations of Nuclear Test Bans—Over 70 Violations.

1. About 20 atmospheric nuclear weapon tests, August through September 1961, were conducted by the Soviets in violation of the 1959 Mutual Test Ban Moratorium. One of these tests reached a yield of 58 megatons.
2. There have been over 30 conclusively confirmed cases of Soviet venting of nuclear radioactive debris beyond their borders from underground nuclear weapons tests, in violation of the 1963 Limited (i.e. Atmospheric) Test Ban Treaty. "The U.S. Government reaffirms the judgement made in the March 1987 Report that the Soviet Union's underground nuclear test practices resulted in the venting of radioactive matter on numerous occasions and caused

radioactive matter to be present outside the Soviet Union's territorial limits in violation of its legal obligation under the Limited Test Ban Treaty. The Soviet Union failed to take the precautions necessary to minimize the contamination of man's environment by radioactive substances despite numerous U.S. demarches and requests for corrective action. This practice has continued. Since the resumption of Soviet underground testing in February 1987, the United States has presented demarches to the Soviet Union on two separate occasions when unambiguously attributable venting has occurred...and received completely unacceptable explanations...our repeated attempts to discuss these occurrences with Soviet authorities have been rebuffed...Soviet refusal to discuss this matter calls into question their sincerity on the whole range of arms control agreements." (emphasis added.)

3. There have been over 24 cases of Soviet underground nuclear weapons tests over the 150 kiloton threshold in probable violation of the 1974 Threshold Test Ban Treaty.

V. Presidentially Confirmed Expanding Pattern of Soviet Violations of Biological and Chemical Weapons Bans

1. "Soviet involvement in the production, transfer, and use of chemical and toxic substances for hostile purposes in Southeast Asia and Afghanistan are direct violations of the 1925 Geneva Protocol." Tens of

thousands of innocent men, women and children suffered horrible deaths from these Soviet atrocities, which are also violations of the Genocide Convention.

2. "The Soviets have maintained an offensive biological warfare program and capability in direct violation of the 1972 Biological and Toxin Weapon Convention." The United States has absolutely no defenses against this capability. The Sverdlovsk anthrax explosion of April 1979, killing several thousand Soviet soldiers and civilians, is direct evidence of the existence of this illegal capability. "After reports of the events at Sverdlovsk reached the West, the U.S. repeatedly and explicitly approached the Soviet Union for consultation under Article V of the Biological and Toxin Weapons Convention. The Soviets have consistently refused to engage in consultations, despite their obligation under Article V...The U.S. Government judges that continued activity during 1987 at suspect biological and toxin weapons facilities in the Soviet Union, and reports that a BW program may now include investigation of new classes of BW agents, reaffirm the conclusion of the March 1987 Report that the Soviet Union has maintained an offensive biological warfare program and capability in violation of its legal obligation under the Biological and Toxin Weapons Convention of 1972. We are particularly concerned because it may include advanced biological agents about which we have little knowledge and against which we have no defense. The Soviets

continue to expand their chemical and toxin warfare capabilities. Neither NATO retaliatory nor defensive programs can begin to match the Soviet effort...There have been no confirmed attacks with lethal chemicals or toxins in Cambodia, Laos or Afghanistan in 1987 according to our strict standards of evidence. Nonetheless, there is no basis for amending the March 1987 Report conclusion that, prior to this time, the Soviet Union has been involved in the production, transfer, and use of trichothecene mycotoxins for hostile purposes in Laos, Cambodia and Afghanistan in violation of its legal obligation under international law as codified in the Geneva Protocol of 1925 and the Biological and Toxin Weapons Convention of 1972."

VI. Soviet Violations of the Kennedy-Kruschev Agreement of 1962

"The Soviets breached a unilateral commitment by sending offensive weapons -- intercontinental nuclear delivery capable bombers, nuclear delivery capable fighter bombers, and various kinds of nuclear missile submarines--back to Cuba, beginning in 1969." The Soviets are thus violating the 1962 Kennedy-Kruschev Agreement prohibiting Soviet offensive weapons in Cuba because of the reported presence of 12 or more TU-95 Bear intercontinental bombers, more than 55 nuclear delivery capable MIG-27 Flogger fighter-bombers, several types of strategic submarines (Golf, Echo, Victor, Yankee, and Foxtrot Classes), over 200 nuclear delivery capable MIG-21 fighter-bombers, a nuclear weapons handling

and storage facility, a Chemical and Biological Weapons production and storage facility, and the Soviet Combat Brigade. On September 14, 1983, President Reagan for a second time confirmed that the Soviet Union had violated the Kennedy-Kruschev Agreement when he stated: "That Agreement has been abrogated many times by the Soviet Union and Cuba in the bringing of what can only be described as offensive weapons, not defensive, there." That statement and an earlier one by President Reagan has been backed up by similar public statements by the CIA Director, the JCS Chairman, and the Under Secretary of Defense for Policy, all charging that the Soviets are violating the

Agreement. And even the State Department concedes that the Soviets are violating the "spirit" of the Agreement.

Conclusion

As President Reagan stated in his seventh Report to Congress on Soviet SALT violations, dated December 1, 1987: "When taken as a whole, this series [i.e. of seven] reports provides a clear picture of continuing Soviet violations...there is a pattern of Soviet noncompliance...The compliance concerns enumerated in this Report are not unfamiliar to the Soviet Union. I expressed my personal interest in

P R E S I D E N T R E A G A N , D E C E M B E R 1 , 1 9 8 7

When taken as a whole, this series [i.e. of seven] reports provides a clear picture of continuing Soviet violations...there is a pattern of Soviet noncompliance...The compliance concerns enumerated in this Report are not unfamiliar to the Soviet Union. I expressed my personal interest in these issues directly to Soviet General Secretary Gorbachev during my meeting with him, both in 1986 in Geneva and then again in Reykjavik in October 1986. In addition, the Standing Consultative Commission discussed compliance concerns in detail during its biannual sessions...Most recently, Secretary of State Shultz raised U.S. concerns about Soviet non-compliance during his October 1987 visit to Moscow...the Soviet Union has failed to correct its noncompliant activities...strict compliance with all provision of arms control agreements is fundamental...Soviet noncompliance is a serious matter. It calls into question important security benefits from arms control, and could create new security risks. It undermines the confidence essential to an effective arms control process in the future...it will be achieved only if effective verification and total compliance are integral elements of the process both with respect to existing arms control agreements and possible new ones.

--From the seventh Message to Congress on Soviet Noncompliance with Arms Control Agreements, December 1, 1987, six days before the summit.



Soviet Record of Cheating

integrity of existing agreements and to establish the positive environment necessary for the successful negotiation of new agreements." But as President Reagan conceded in his March 1987 Report in regard to all Soviet violations of SALT I and SALT II: "In no case where we determined that the Soviet Union was in violation did they take corrective action."

In a letter to the Congress transmitting his December 1, 1987, violations report, President Reagan stated: "Correcting their violations will be a true test of Soviet willingness to enter a more constructive relationship . . . on security matters."

In his March 10, 1987 Report to Congress on Soviet SALT violations, President Reagan added: "Strict compliance with all provisions of arms control agreements is fundamental, and this Administration will not accept anything less . . . If we are to enter agreements of this magnitude and significance, effective verification is indispensable and cheating is simply not acceptable."

Finally, in his June 1985 Report to Congress on Soviet SALT violations, President Reagan states: ". . . this pattern of Soviet noncompliance raises fundamental concerns about the integrity of the arms control process, concerns that--if not corrected--undercut the integrity and viability of arms control as an instrument to assist in ensuring a secure and stable future world . . . we have made it absolutely clear that we expect the Soviet Union to take positive steps to correct their noncompliance and to resolve our compliance concerns in order to maintain the

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Verification and Compliance: Does the INF Treaty give us the ability to detect, inspect, and correct any violations of the treaty which occur on declared sites, or which occur elsewhere?

PRAVDA TURNS POETIC, NINE DAYS
AFTER SIGNING THE INF TREATY
December 17, 1987

RSD-10 [SS-20]:
Meditations from
The Starting Position

A march of a missile division
Was occurring along
A nocturnal, snowbound road.
Past sleeping villages,
Blizzard-smitten fields,
Through forests and clearings,
Over icy lakes, and rivers,
Shaking the earth,
The column is rolling on,
Heavily filling the ground...

It is sinking into the wilderness
Into nature--
An itinerant military unit,
Changing its environment,
Unknown to the enemy...

It is futile to seek it from space,
To grope for it with radar rays.

--"Alexander Prokhanov,"
Translated by Lev Navrozov

The problems of verification relating to the INF Treaty may be summarized as follows:

1. We don't know what we are looking for.
2. We don't know where to look for it.
3. If we find it, we don't know what we have found.
4. If we figure out what it is, there's nothing we can do about it.

In each case, the "it" is an SS-20, the fundamental Soviet system constrained by the INF Treaty.

These statements are literally true. Despite the aura of oversimplification that hangs about the phraseology, the INF Treaty boils down to the fact that we don't really know what it is that we are trying to verify.

We have the reassurances of experts, who are in turn reassuring each other. We have "a high degree of confidence" in the data, most of which is based on

interpretation and surmises. We observe the "signature" that suggests to our experts that an SS-20 has been deployed, but the only photograph we have of an SS-20 is a forgery.

When we actually get to see an SS-20 under the Treaty, we have no way of being sure that the physical object we are looking at is actually the missile that Europe fears; or if it is the missile we think it is, we can't tell and aren't allowed to find out whether it is a real, flyable missile, or a dud, a reject, or a mock-up, of which the Soviets have plenty. So when we observe that it has been destroyed, we don't know whether anything worth destroying has been destroyed.

Once all the SS-20s on all the declared sites have been destroyed, we are not allowed to go look at any other sites (not declared in the Memorandum of Understanding) where we have reason to believe SS-20s may be hiding. We don't know whether there is a covert force of SS-20s ready to be deployed. Nor do we know whether SS-20s, artfully disguised, may already be deployed among the SS-25 ICBM forces (illegal under SALT II), which share many of the same characteristics of "signature."

WHY?

Why does the Treaty and its Protocols permit the Soviet Union to retain roughly three to four times as many nuclear warheads as are retained by the United States?

Why does the Treaty fail to prohibit the reloading of these warheads or to provide safeguards against their reloading and retargeting either on NATO or the United States?

Why does the Treaty and its Protocols fail to require the elimination of the nuclear warheads and associated guidance systems?

Why does the Treaty and its Protocols deny to the U.S. inspection rights at suspect sites for systems covered by the treaty?

Why does the Treaty and its Protocols permit the retention of 15 launchers with missiles and nuclear warheads on so-called "static display"?

Why does not the Treaty and its Protocols permit inspection of SS-25 launch canisters to ensure that they in fact contain SS-25 missiles and not the equally compatible SS-20?

Why does not the Treaty and its Protocols require an exchange of engineering specifications so that it can be verified that eliminated missiles are operational systems and not factory rejects?

Why does the Treaty and its Protocols fail to cover all ground-based Soviet missiles in Europe which are capable of use at intermediate-range?

Why does the Treaty and its Protocols fail to cover all ground-based Soviet missiles in Europe which are capable of use at shorter-range?

Why does Article XIV (non circumvention) not make it expressly clear that anti-tactical ballistic missile systems (ATBMs) are not considered a circumvention?

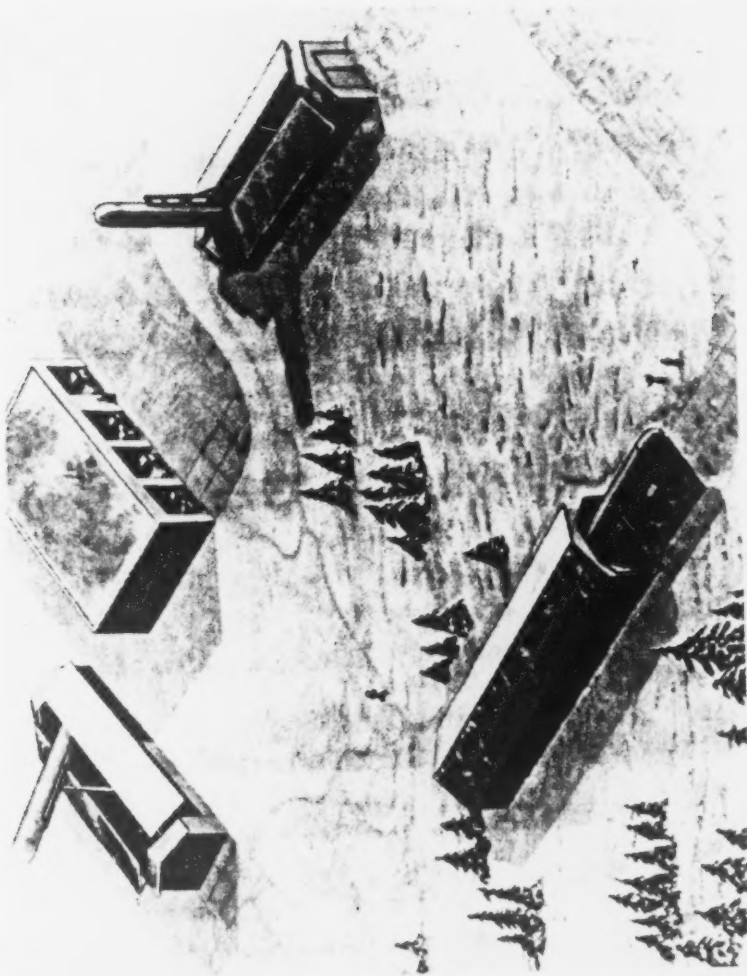
In short, our actual knowledge of the SS-20 may be compared to a child's connect-the-dots picture of the Mona Lisa. We start with Number 1, go to Number 2, then to Number 3, and so on as the picture gradually emerges. But then we realize that it is the Soviets who are giving us the numbers. If we connect the dots in a different way, another picture may be concealed.

The Soviets are the only country in the world to establish a Directorate of Strategic Deception (Maskirovka). Its first Director was Marshal Ogarkov, who is now Commander of the Soviet Western Theater of Military Operations, and thus has immediate command of the SS-20 forces proposed to be eliminated. Every arms control treaty in the past was signed by the Soviets with the full intention of using strategic deception to evade the constraints of the treaty; the President's reports on Soviet arms control violations clearly indicate that preparations for the violations were underway before each treaty was signed.

The theme-word of the INF Treaty is glasnost. But the theme-word for verification of the INF Treaty may well be Maskirovka.

We Don't Know What We Are Looking For

No one in the United States has ever seen an SS-20, nor has our intelligence community ever taken a picture of one. Every flight-test of an SS-20 has been made with encrypted telemetry so we don't know



the characteristics.

The SS-20, like the SS-25 and many other Soviet missiles leaves the factory in an environmental canister that protects the missile with heaters and an inert atmosphere. The missile is delivered on the site in the canister, is erected on the launcher in the canister, and is fired through the top of the canister. Thus the missile is never in the open until it is on its deadly way.

This system contrasts with the Pershing II, which, with advances in propellants and guidance, needs no environmental protection. This means that Soviet satellites can photograph the Pershing II, but that we can never photograph the SS-20.

We can think of the SS-20 in its canister like a cigar in a tube. As long as we are looking at the outside, we don't know what is in it. If we take the top off, we can see the end of the cigar, but we still can't make much judgment about the quality of the cigar.

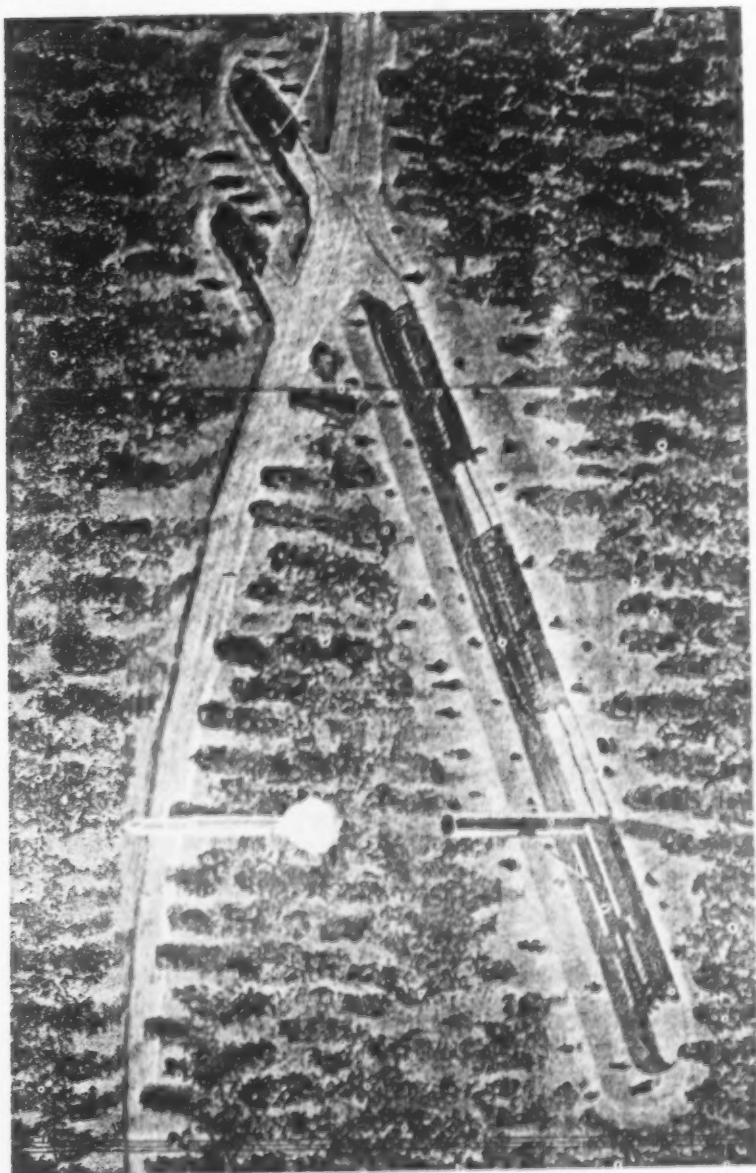
We identify deployed SS-20s by the so-called "signature"—a group of external characteristics which we believe to be associated with deployment. These include specific deployment sites, the presence of Transporter-Erector-Launcher (TEL)—a sort of massive truck for handling and launching missiles), and "garages" or sheds which protect the loaded TELs from the weather and from observation by satellite, and which

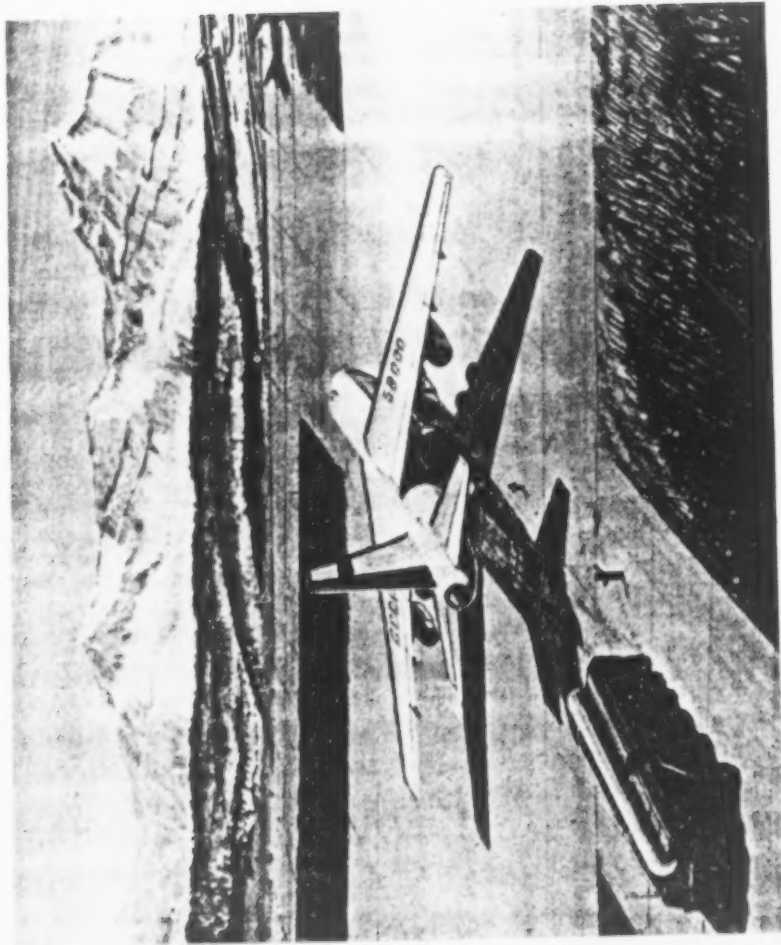
Issue
6

Verification and Compliance

OFF-BASE DEPLOYMENT:

SS-20s are here portrayed on alert on a prepared survey site in the wilderness. Note reloads in background waiting to be fired.





SS-20 launcher is loaded into the cargo bay of a Soviet "Condor" transport plane.

Issue

6

Verification and Compliance

have roofs that open up for launching. We count the number of SS-20s by counting the number of these garages.

However, SS-20s do not have to be launched from static SS-20 sites. It is a mobile missile. The TELs can proceed to a predetermined survey point, launch a missile, and then move to a different survey point to launch a reload. Moreover, the SS-20 can be effectively camouflaged to escape detection, particularly in the wilderness areas of the Soviet Union.

This mobility and camouflage makes it difficult to pinpoint for a retaliatory strike. The flexibility of the mobile launchers and the availability of an unknown quantity of reloads make the SS-20 (and SS-25) a formidable weapon system.

We know very little about the concept of operations for mobile missile units that are deployed in the field. We don't know how they operate, how they plan and execute camouflage, concealment, and deception, or even how long they stay in one place. Not do we know whether all SS-20 units are located in garages, or whether some are concealed in environmental shelters, such as caves, tunnels, and so forth. Newspaper reports state that internal sensors of the CIA have called for such operational studies, but none appear to have been done for lack of personnel.

To make matters more complicated, the SS-20 canister and TEL can easily be driver

into the cargo bay of an Antonov 124 "Condor" transport plane and flown to any part of the Soviet Union.

The difficulty of detecting mobile missile systems can be illustrated by recent reports on two other mobile missile systems. Recent press reports state that the CIA has concluded that several hundred Soviet SS-11 ICBMs have been covertly deployed in a rail-mobile mode for over ten years. This is a large deployment that completely escaped detection.

Another example appeared in the President's report to Congress on Soviet Arms Control Violations. The President noted that about 200 Soviet SS-16 road-mobile ICBMs were deployed between 1976 and 1984—the entire period covered by SALT I and SALT II—without detection.

Such experiences may well confirm the Soviets in their belief that illegal deployments may escape detection for a long time, and even if detected, the United States will take no action.

The SS-20/SS-25 Problem

Our knowledge of the SS-20 system is further complicated by the ambiguous elements which it shares with the SS-25 system. The SS-25 is classified as an ICBM, although it has also been tested at an intermediate-range capability. In truth, it ought to be considered a variable-range

missile. Because it has both INF and ICBM capabilities, it does not meet the definition of systems to be eliminated under the INF Treaty. This in itself is a major problem in the Treaty in that it eliminates INF missiles, but not INF capability.

However, a completely different problem also emerges. The SS-20 and the SS-25 belong to a modular family of missiles, including the SS-16. The SS-20 and the SS-25 have identical first-stages. The

second stages are so similar that the Soviets are required under the terms of the treaty to give us identifying characteristics. The third stage of the SS-25 is unique to that missile. The major visual point of identification is that the SS-25 is about ten feet longer than the SS-20.

The SS-25 is not covered by the Treaty, but it is deployed in the same manner as the SS-20. When we examine the SS-25

SS-20 Disguised as SS-25, by Placing SS-20 Inside SS-25 Canister

SS-20 Missile



SS-20 Canister



SS-25 Canister



3 Meters

"signature" or identifying characteristics, we find disturbing similarities. It uses the same type of launcher; it uses the same type of canister; it uses the same type of garage. The only difference is that each of these items is modified to be about ten feet longer.

Our satellites, of course, can detect the ten-foot difference. We are able to differentiate between deployments that are clearly SS-20 deployments and deployments that have the SS-25 signature. The problem is that deployments with the SS-25 signature do not necessarily have to contain SS-25s. The SS-25 canister could easily contain an SS-20 missile. The SS-25 TEL and canister could easily fire an SS-20 missile concealed inside. The canister would have about ten feet of waste space, but it would not be "wasted" if the concealment deceived a U.S. satellite.

In fact, the Soviets have already begun to convert SS-20 bases into SS-25 bases by lengthening the garages. During this transition, SS-20s and SS-25s appeared to be mixed together on the same base. At the conclusion of the transition, nothing but the longer canisters and garages are in view.

Is it credible that the Soviets would conceal a fleet of SS-20s in SS-25 canisters when they could upgrade into the more modern and more powerful SS-25 without cheating? We must be not define credibility by mirror-imaging our own reactions. Instead,

we must consider the following:

1. At least half the SS-20s are new missiles deployed within the past three years.
2. It is cheaper to conceal these missiles already produced in longer canisters than to build and deploy a whole new system.
3. There is no inherent reason why both SS-20s and SS-25s could not be mixed together on the same site, all arrayed as SS-25s.
4. SS-20 troop training and reliability firing could continue using SS-25 equipment.
5. There are special uses for the SS-20 which would make it worth while for the Soviets to cheat. [See Issue 3, Militarily Significant Advantages.]
6. The Russians invented the concept of Potemkin villages.

The SS-20 Photo Forgery

The photograph of the SS-20 and the SS-23 which the Soviets are required to provide under the Treaty data exchange do not conform to the numerical data supplied. This is a very serious problem, especially since we do not have any photographic evidence of the SS-20 ourselves.

Throughout the negotiations in Geneva, the Soviets declined to furnish photographs of the SS-20, claiming that, since the missile was always in the canister, photographs of the missile itself were unnecessary.

Finally, a radio-transmitted copy of the SS-20 photograph of very poor quality was turned over to the United States on December 8, the same day the Treaty was signed. A glossy photo of the same image was turned over on December 20.

Nevertheless, the photograph was not a picture of the SS-20 to the extent we have information about it. In the Soviet-supplied photo, analysts report that the post-boost vehicle (the last stage before the re-entry vehicle containing the warheads) appears to have a diameter of .9 meters. But we have always believed that the diameter of an SS-20 re-entry vehicle to be 1.4 meters, based on press reports of intelligence assessments of the RV re-entering the atmosphere on test launches.

The size of each of the three warheads can then be calculated by determining the space that would be required to fit three into a 1.4 meter diameter—the result being .7 meters. Clearly three warheads of a .7 meter diameter could not fit on a post-boost vehicle of .9 meter diameter.

Thus either the photograph is wrong, or the U.S. assessment about the size of the

SS-20 re-entry vehicle is wrong. The problem is that we have no way of telling. To the extent that we can examine any SS-20 under inspections allowed by the Treaty, we will never know whether we are examining real SS-20s or a mock-up to match a forged picture.

The SS-23 Forgery

Similarly, the Soviet photograph of the SS-23 supplied under the terms of the Treaty also appears to be a forgery. The SS-23 is a single stage missile. The length of the single SS-23 stage as pictured in the

photograph is about 4.3 meters, using measurements extrapolated from the meter stick appearing in the photo.

But the Soviet-supplied data from the Memorandum of Understanding specifies 5.17 meters for the first stage, or 7.52 meter

2nd Stage Booster (PBV)

1st Stage Booster

SS-20



Diameter: 90cm - 1m Smaller diameter of PV as shown in Soviet photocopy

Diameter: 1.4m Larger outline of PBV according to U.S. intelligence

for the first stage and a so-called "front section." Neither number is consistent with the dimensions in the photo.

Keen observers might wonder where the "front section" is that is mentioned in the MOU, when nothing appears in the photo. And why are both lengths inconsistent with the length in the photo?

Some of these questions were answered in Moscow on January 14, when Soviet Foreign Ministry spokesman Gennadi Gerasimov told a news conference that the Soviets had informed U.S. officials that the SS-23 was photographed without a "connecting compartment" that connects the front section to the body. He said the section had been left out because U.S. and Soviet negotiators had not stipulated before the Treaty was signed whether the connecting section belonged to the warhead or to the body of the missile. He therefore admitted that the photograph did not include the "connecting compartment." Nevertheless, he offered no explanation for the inconsistency of the numbers.

One reason for the desire of the Soviets to avoid showing the "connecting compartment" is that the SS-23 is known to have a chemical warfare warhead, and may have an illegal biological warfare warhead. The INF Treaty requires the SS-23 "front end" to be eliminated. A photograph of the "front end" is required by the Treaty to be made available so we can verify that it has been eliminated.

SS-23 FIRST STAGE LENGTH FROM INF T. MOU

5.17 METER

.87 METER

ABOUT 4.3 METER

1 METER SCALE

Page 66

DIAMETER = .97 meter

Photograph of SS-23 first stage is
.87 meters shorter than MOU DATA
length of 1st stage

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Verification and Compliance

On Site Inspection

As late as October 1, 1987, ACDA publications showed that the United States' negotiating position was that a treaty should include a "suspect site" provision—"short-notice inspection of certain missile-related facilities in the U.S. and the U.S.S.R. at which illegal missile activity is suspected."

This is not the same thing as "anywhere, any time" inspection. It has inherent limitations which could have been negotiated. But no such provision appears in the final treaty.

U.S. verification challenges under the INF Treaty are essentially the following:

1. Can we locate and identify all the SS-20 missiles that the Soviets have produced?
2. Can we prevent the Soviets from covertly deploying any extra SS-20s, either disguised as SS-25s or in a different covert mode?
3. Can we search effectively for covert mobile missiles throughout the huge landmass area of the USSR, and have high confidence of detecting them?

The problem with on-site inspection as defined in the Treaty is that we cannot examine suspect sites. We only have the ability to examine sites where the presence

of SS-20s has already been declared by the Soviets in the Treaty. If, to take an extreme example, the Soviets were to move SS-20s outside of the fence where they are now located, we would not have the right to inspect them on-site. Our satellites might detect such an open violation, but we could not verify it on site. Of course, our satellites might never detect the violation if proper concealment measures are taken.

Moreover, if SS-20s are covertly mixed into SS-25 sites, we do not have the right to inspect them on site.

Once the 650 SS-20s are destroyed, our rights to inspect the former declared SS-20 sites are extremely limited. Moreover, the site itself is not destroyed—only the garages and the missiles. Nor does the Treaty require that the launchers be dismantled. All the Treaty does is to force the Soviet Union to remove the leveling jacks from the SS-20 launchers and the equipment which erects the missile.

Once these minor modifications have been made, the launcher is never again subject to inspection. The launch vehicle can be retained. There is no reason why the Soviet Union cannot recover the vehicle to use as a launcher if it so desires.

It should be noted that the logistics and transportation for U.S. on-site inspections will be provided by the Soviets themselves. The Soviets are notorious for

controlling the movements and actions of U.S. inspectors, much like they have controlled the movements of U.S. and Allied Military Liaison Mission observers in East Germany. The tragic example of the Soviet murder of Major Nicholson in 1985 while on an on-site inspection type mission in East Germany should help us understand the Soviet attitude towards inspectors.

Late in 1987, another U.S. Military Mission observer was shot and wounded. He had just discovered a previously undetected SS-23 Brigade in East Germany with a hand-held camera. This SS-23 Brigade had gone undetected for three years.

Finally, it is well known that Soviets have attempted to drug and blackmail U.S. Military attaches in Warsaw Pact countries. This kind of treatment is suggestive of what might be in store for U.S. on-site observers.

Destruction of SS-20s

Even the presence of observers at the destruction of SS-20s may be more misleading than informative. The small number of SS-20s declared (650) is about half most previous estimates. In destroying 650 SS-20s, we have no idea what we are destroying.

All missile production includes a high number of rejects. The United States has experienced a high proportion of missiles that were judged to be not fly-worthy. The

What Can We Do About It?

accounts in the press about the fact that our reconnaissance systems cannot detect ground activity during the night or in conditions of heavy cloud cover.

Thus movements of missiles and illegal materials can take place at night, and the United States will have no ability to detect violations.

Recent press accounts have also indicated that the United States does have a system that is potentially capable of operating night and day. It has been referred to as the Indigo/LaCrouse system, based on the principle of Synthetic Aperture Radar. It is capable of collecting intelligence at night and during all weather conditions, including cloud cover, and would provide around-the-clock broad area search coverage of Soviet mobile IIR deployment, testing, and production areas.

Unfortunately, the Indigo/LaCrouse system is too large to be put into space by any other method than the Space Shuttle, and the Space Shuttle has been grounded since early 1986. In test firings in December, the Space Shuttle continued to demonstrate operational problems that may delay the next launch until late 1988—or even later.

Thus we cannot even depend upon our National Technical Means to verify compliance with the INF Treaty.

United States, for example, forgot to declare 16 stages for the Pershing IA which had been rejected for not meeting specifications and were sitting in a warehouse.

The definitions of an SS-20 which are established in the Treaty are all quantitative, rather than qualitative. We have no way of telling whether a missile being destroyed is a real, deployable missile, or one which seems to have all the components cited, but is grossly defective in ways not detectable to the eye.

We could very well be giving official observation to the destruction of junk.

Furthermore, the Treaty allows 100 missiles to be destroyed by launching. The Soviets insisted on this number; in fact they even sought more. Although limits destruction by launch supposedly limits electronic signals to those necessary for range safety, there is no reason why the Soviets could not use this procedure for flight testing to gain reliability data. If the data were encrypted, or encapsulated for later recovery from the range, the United States would be none the wiser.

National Technical Means

Finally, we cannot have confidence that our National Technical Means will be able to fill that gap that the so-called on-site inspection leaves. There have been many

The historical evidence is that the Soviets sign arms control treaties even while they are making preparations to evade the constraints they supposedly agree to.

When the Soviets signed the SALT I Interim Agreement on May 26, 1972, fully intending to make a large-scale replacement of light ICBMs with the concealed SS-19 heavy ICBM, which was specifically prohibited by Article II of the Agreement. The full intention of Soviet leaders was revealed by the extremely sensitive intercepting and decoding of the private Summit conversation of Soviet leaders. This material has now been declassified. (See Congressional Record, April 8, 1987, PP. Page 67 S-4836-46.)

Soviet leaders also signed the SALT I Interim Agreement, knowing that their argument—a successful argument—for a 3 to 2 advantage over the United States was completely invalidated by the concealed long range of their SS-N-8 SLBM.

Soviet leaders signed the SALT I ABM Treaty on May 26, 1972 which forbade integrally related, intermitted, and overlapping coverage. Yet in 1973, the Soviets began to build the first of the 10 now-existing Pechora-Kramoyarsk-Sevastopol Class radars, not one of which makes sense except as part of such a system. Indeed, logistical planning for the construction of the illegal Kramoyarsk radar began in

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mid-1979, just as the SALT II Treaty was being signed.

Soviet leaders signed the 1972 Biological Warfare Convention prohibiting any offensive biological warfare capability while secretly planning to expand their prohibited BW capability. In fact, the Soviet actually physically expanded their illegal BW storage and production facilities between the 1972 signing and the 1975 ratification of the BW Convention.

Soviet leaders signed the SALT II Treaty in June, 1979 with the secret knowledge that their now-deployed SS-25 ICBM (then under development) would also violated the prohibitions on heavy ICBMs, and that their banned SS-16 mobile ICBM was already illegally deployed.

In the SALT II Treaty signed in 1979, Brezhnev gave the United States a statement on the Soviet Backfire Bomber, which was an integral part of the Treaty. But Brezhnev claimed that the Backfire did not have either a refueling capability or an intercontinental operational radius, even though U.S. intelligence already had strong evidence that it clearly had both capabilities.

Soviet leaders are now deploying the new version SS-20 Mod A, just at the moment when they have agreed to abolish this entire class of missiles. Based upon past history, should we be prepared to see such systems illegally deployed in the future?

The verification system in the INF Treaty may be the best verification system

ever negotiated. It may include the most comprehensive verification procedures ever included in an arms control agreement. But the best is not good enough if it does not actually permit verification.

Peace and Freedom: Can the INF Treaty be viewed apart from the Soviet stand against religious rights and human freedom in the Soviet Empire and throughout the world?

The Soviets have attacked peace and freedom both outside and inside the Soviet Empire in regions as farflung as Central America, Afghanistan, and Angola, they have financed and supported wars of oppression against the fundamental desires of local peoples for freedom.

Even inside the Soviet Union and Eastern Europe, the Soviets have systematically deprived their subjects of fundamental human rights. What follows is an overview of three regional conflicts, and the universal communist assault on religious freedom within Soviet-controlled dominions. Religion was selected precisely because of the overriding importance of the relationship between each individual and his God, and because the assault on religious freedom is such an integral part of communist doctrine.

REGIONAL CONFLICTS — AN OVERVIEW

During the past decade, the Soviets have become increasingly involved in support of communist insurgencies around the world. These efforts are focused primarily in five major areas — Latin America, Afghanistan, Africa, the Middle East, and the Far East.

With the exception of Afghanistan, Soviet support is not generally provided through the direct intervention of Soviet troops, but rather through Soviet-supplied military equipment and extensive training of indigenous combatants. The

Soviets also rely upon others to provide direct military assistance and troops in certain areas — most notably, Angola.

The Department of Defense has published the following estimates of Soviet military personnel in these areas of the Third World:

Latin Amer. (including Cuba)	7,900
Sub-Saharan Africa	3,600-4,000
Mideast and North Africa	8,000-9,000
Asia (including Vietnam)	3,500
Afghanistan	116,000

Additionally, it has estimated 38,000 to 41,000 Cuban military personnel in

Sub-Saharan Africa, primarily Angola.

The Defense Department estimates that over \$5 billion in arms has been provided between 1961-1966 to each of the following countries: Libya, Algeria, Syria, and Iraq.

The Soviets often gain access to air and naval bases as a part of their involvement in these conflicts.

The following excerpts from Soviet Military Power 1987, published by the Department of Defense, give a summary of Soviet involvement in these areas:

"As the Soviet Union emerged as a global power in the 1970s, the nation's military doctrine evolved to match a more activist foreign policy. A stronger, more adventurous Soviet Union had begun to view conflict in the Third World as an avenue for furthering Soviet interests through military assistance and intervention. That view heralded an era of extraordinary and continuing Soviet activism — the 1975 Soviet-Cuban intervention in Angola, the support for Vietnam's 1978 invasion of Cambodia, and the 1979 invasion of Afghanistan. Early optimism gave way to a less positive view, however, as a number of Moscow's clients faced significant insurgencies. Soviet ideology offered no explanation for these setbacks, and the Kremlin had trouble understanding how an emerging socialist state could find itself subject to popular rebellion.

"At the same time, Soviet military thinkers struggled to deal with the new realities and to develop a coherent doctrine defining a possible role for the Soviet Armed Forces in countering these insurgencies. By the end of the Brezhnev

era, military writers were labeling the fight against the new hierarchies "war in defense of socialism" by nations on the "path of socialist development." While this rationale served to justify Soviet actions in support of a friendly state, the Kremlin ideologues still could not acknowledge the possible legitimacy of such opposition. Instead, they blamed it on neorealist imperialist meddling in support of counterrevolutionaries and "barbarians" in former colonial states."

These policies have continued under Gorbachev. However, some of these conflicts appear to be producing a significant drain on Soviet resources. Afghanistan and Angola are two areas of the Soviet's largest involvement where they have not been able to solidify support for their clients. Afghanistan continues to require extensive Soviet troops while Angola continues to use up Soviet military equipment.

The following sections apply to the Soviet involvement in three areas.

THE SOVIET INVOLVEMENT IN AFGHANISTAN

The Soviet Union has militarily occupied Afghanistan since invading the country in December, 1979. Since that time, the Soviets have expended considerable energy and resources to maintain control over the institutions of government and in attempting to subdue the large military resistance to their occupation.

The Soviet military presence in the country has increased from approximately 85-90,000 troops in 1980 to approximately 115,000 troops today. In addition, 30-40,000 troops are stationed on the Soviet side of the Afghan border from where they provide support of combat operations and fly missions against the Afghan resistance.

In addition to this military presence, the Soviet Union has exercised effective control over the Afghan government. Soviet control of the Afghan Ministry of Defense is so complete that no orders may be issued by the Ministry without being countersigned by a Soviet. The Soviets have developed a local version of the KGB, called the KPD, which has carried out a variety of violent activities such as terrorist bombings in Pakistan.

The military occupation has had a devastating effect on the Afghan people. It has been estimated that 1 out of every 9 Afghans has lost their lives during the occupation, and that 1/5 of the the population has fled the country. The Soviets have used the war as a proving ground for new weapons, including chemical weapons and body traps aimed at civilian population.

During a visit to Kabul in early January, Soviet Foreign Minister Eduard Shevardnadze suggested that Moscow would withdraw its 115,000 troops during this

year. This is the most recent of a series of statements suggesting such a move since General Secretary Gorbachev called for a withdrawal in "the nearest future" back in February, 1986.

Whether or not such a withdrawal will take place, however, is open to debate. As *Newsweek* reported (1/19/88), "Gorbachev's previous peacekeeping gestures haven't added up to such. His withdrawal of some 8,000 Soviet troops in October 1986 was pure propaganda, which did not change anything in Afghanistan."

The report also noted that "last year, before the latest round of the Geneva talks, the Soviets floated optimistic rumors about withdrawal—and then gave up very little at the bargaining table."

SOVIET-ARAB ECONOMIC ASSISTANCE TO MONGOLIA AND CHINA

Soviet Bloc assistance to Communist Mongolia and China since 1980 has increased dramatically. Military deliveries from the Soviet bloc to Mongolia and China exceed the cumulative value of U.S. military assistance by eight to one in the region.

Soviet aid has enabled Mongolia to build up an Armed Force with 75,000 troops on active duty, and 60,000 in militia and reserve.

Soviet military aid over the last 20 years has helped China build an Armed Force of nearly 300,000, with almost 1,000 tanks, about 20 sophisticated fighter aircraft, and a navy that includes submarines, frigates, and high-speed torpedo-firing hydrofoil patrol boats.

China and Mongolia are both crucial to the Soviet Union for strategic reasons. At least 7,700 Soviet military and intelligence personnel are stationed in China.

Mongolia receives more than 90% of its military assistance from the Soviet Bloc countries. Combined economic and military assistance from the Soviet Bloc to Mongolia increased nearly sixteen-fold, from \$70 million in 1980 to about \$1.1 billion in 1986. Furthermore, China has been providing about \$0 million in additional economic assistance to Mongolia annually for the last several years.

In the first nine months of 1987, Mongolia's cache of Soviet-supplied military hardware grew by 15,000 metric tons. The Communist Sardinistas now have 39 Mi-8/17 HRP helicopters, and at least 12 Mi-24 Hind D attack helicopters. They also have 150 medium and light amphibious tanks, and 250 armored personnel carriers and reconnaissance vehicles.

Soviet Bloc assistance to China has also increased significantly in the last

BECAMADON - THE MILITARY BUILDUP, JANUARY 1979 TO 1 NOVEMBER 1982 (U)

STATUS OF FORCES										
Yearling	No. Arms Shipments/ Thousands Metric Tons	Million U.S. Dollars	As of	Total Force*	Tanks	Other Armored Vehicles**	Fixed-Wing Aircraft/ Helicopters**	Airfields	ABA Guns/ M16's	Radars
1979	-/-	-	19 Jul 79	6,000	3	31	30/8	4	2/0	0
1980	-/1.6	10	1 Jan 80	16,000	3	31	38/8	4	2/0	0
1981	2/9.1	160	1 Jan 81	24,000	3	25	40/8	4	39/6	0
1982	6/11.2	140	1 Jan 82	39,000	30	45	40/10	4	100/6	0
1983	25/13.9	250	1 Jan 83	41,000	50	45	40/15	4	150/20	0
1984	37/20	320	1 Jan 84	44,000	50	90	44/15	4	150/20	Some
1985	35/19.4	280	1 Jan 85	67,000	150	200	45/20	5	200/200	Some
1986	50/22	640	1 Jan 86	74,850	150	199	45/25	5	200/200	Some
Through Nov 82	51/22.5	475	1 Nov 82	80,000	150	250	44/25	5	300/200	4 Sites
							36/23	5	400+/100+	4 Sites

* Active duty and mobilized militia/reserves. Figures since 1 January 1985 have been revised upward to reflect newly declassified figures.

** Latest (combat and otherwise) may reflect an increase in the number of aircraft for a lower figure than prior year estimates.

*** Construction at Penta Milla continues with approximately 3,000 meters of the runway paved.

The dollar figures presented reflect a general revaluation of the Soviet military assistance program worldwide which shows a 48% increase for the 1980-85 timeframe. This revaluation did not involve changes in the number or types of equipment delivered; rather it increased the dollar estimates for support material. In effect, it was the use of MiG-29s, the value of Communist military aid for the period 1980-1986 doubled due to the large amount of support material provided.

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several years. In 1983, Soviet Bloc military and economic assistance to Cuba was about \$2.5 billion, and in 1986 that assistance increased to almost \$7 billion.

The enormous amount of military assistance from the Soviet Bloc countries in Latin America.

to both Cuba and Nicaragua presents a significant threat to freedom and stability in the Western Hemisphere. Much of this military assistance has been used to train Marxist-Leninist guerrillas seeking to overthrow democratic countries in Latin America.

SMURDSON MILITARYIZATION PLANS

In October 1987, a key Major in the Sardinista Army defected to the United States. In December 1987, he made public vital information regarding the future military plans of the Sardinista Regular Army.

Before his defection, Mayor Miranda was Chief of the Secretariat of the Nicaraguan Ministry of Defense, and member of the Sardinista Assembly (Central Committee). Mayor Miranda has revealed the following information about the intentions of the Sardinista Government in the next seven years.

—The Soviet Union has promised the Sardinistas MiG-21 fighter aircraft that are now expected to be delivered by 1991.

—The Sardinistas intend to build an army and militia totalling 500,000 people in the next seven years.

—Many more armored personnel carriers, self-propelled howitzers, antitank weapons, surface-to-air missiles, and aircraft guns are expected or already have been delivered.

—Three new 400-ton naval vessels are expected from the Soviet Union.

—The Sardinistas continue to support and train the Salvidor Communist guerrillas.

Just one day after Mayor Miranda made his statement to the U.S. press, Defense Minister Humberto Ortega confirmed the allegations about the planned military buildup in Nicaragua. Mayor Miranda made it clear that the Sardinista Government

had already made an agreement with the Soviet Union and Oba regarding a major military buildup. Miranda also stated that it is the Soviet and Cuban advisors who guide the Sardinia Government.

THE SOVIET PRESENCE IN ANGOLA

The Soviet presence in Africa has been divided between assistance to Libya and Algeria, as a part of its entry into Middle East affairs, and in Sub-Saharan Africa. In the latter cases, the Soviet aid is directed primarily at consolidating Soviet-backed Marxist governments.

Angola

Priorities in Sub-Saharan Africa in the past decade have been Angola and Ethiopia, both of which established Marxist-Leninist governments, but which face significant popular opposition.

The current rulers in Angola are the Soviet backed Leninist MIA. In mid 1975, after the Portuguese colonial government decided to leave Angola, the three anti-colonial factions, which included the MIA and UNTA, agreed in the Alvor Accords to create a pluralistic democracy, and hold national elections to determine the make-up of Angola's national leadership. National polls indicated that Jose Savimbi, the leader of UNTA, would win overwhelmingly. However, the MIA with the help of the

carriers; and hundreds of trucks, several convoys of bridge building equipment, clusters of light and heavy artillery batteries; including the B4-21 "Stalin Organ" rocket artillery batteries.

The communist offensive launched in July against Savimbi's forces failed. Reports indicate that during one of the most intense battles, the Obans and Soviets were airlifted by helicopter out of the battle, causing resentment among the remaining Angolan troops who suffered severe casualties.

Despite the large influx of Soviet assistance, the Marxist government has not secured the country. The areas of Eritrea and Tigray have anti-government insurgencies which have not been defeated either by the military or the government's starvation policies.

Famine has been severe, especially in these areas, but the resistance continues. Over 1 million Ethiopians have fled the country in the past several years.

Unlike Angola, no U.S. assistance is provided to the forces opposing the Marxist government in Ethiopia.

Other Involvement

The Soviets have provided lesser amounts of military assistance to Mozambique, Zambia, the Congo,

Niger, and the Seychelles, although military advisors are stationed in a number of additional countries in Africa.

The New York Times reported on November 22 that "this is the third offensive by the Marxist government that M. Savimbi's troops have defeated in as many years." Reports indicated that the UNTA forces seized "very substantial" quantities of recently delivered Soviet weapons — including "dozens of tanks", armored personnel carriers, trucks, and a few SA-8 and SA-13 aircraft missiles.

Captured soldiers and Communist defectors confirmed that the Soviets were furious at their Angolan allies because some of the Soviet's best, top-of-the-line combat equipment was captured intact by UNTA.

According to one estimate, over \$4 billion in Soviet military hardware has been supplied to Angola since 1975. However, the Soviets have been unable to secure areas of the country other than a few cities, towns, and certain areas containing economically productive extraction industries such as oil and diamonds.

Oban defectors have provided valuable information about the situation in Angola. Brigadier-General Rafael Del Pino Diaz, former Oban Air Chief of Staff in Angola, defected to the U.S. last year. He reported that the Obans have suffered 10,000 casualties in the

Soviet Union, airlifted 12,000 Oban troops into Angola and militarily took over the country.

The personal popularity and military effectiveness of Jose Savimbi has improved the position of the National Union for the Total Independence of Angola (UNITA). Highly motivated opposition forces have had military success beyond their numbers against less motivated Oban forces, estimated to number 35,000 to 40,000. The U.S. has provided military assistance to Savimbi since 1965 when the Clark amendment prohibiting such assistance was repealed.

On September 14, 1967, The New York Times reported that the 125,000-member combined army of Angolan and Soviet-bloc forces is one of Africa's most formidably equipped. The combined Communist army in Angola has over 37,000 Oban troops, 5,000 Soviet and East German advisors, and 80,000 Angolan troops.

Soviet-applied equipment includes some of the most sophisticated in the Soviet arsenal: over 800 tanks; the most up-to-date SA-8 Soviet anti-aircraft batteries (equipped with sophisticated radar and television optical equipment for tracking approaching planes); high performance MiG-23 and MiG-21 fighter jet aircraft; Mi-25/26 Hind helicopter gunships; Mi-8 troop-carrying helicopters; SU-22/Fitter tactical bombers; hundreds of armored personnel

Angolan war, and that the Cubans are an increasingly resented by civilian Angolans. He also emphasized Angola's strategic importance to the Soviet Union.

The Soviets now operate submarines, destroyers and cruisers from ports in Angola. These ships operate from ports that are within range of two key sea lanes, the oil routes around the horn of Africa, and the IMO resupply routes across the Atlantic.

Ethiopia

The Soviets have provided more than \$4 billion in military hardware, together with substantial Soviet logistics and advisory support, enabling Ethiopia to develop the largest army in Sub-Saharan Africa. Approximately 1700 Soviet advisors assist the Ethiopian army.

The following accounts are based on information submitted by the U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs; The Ethics and Public Policy Center, Washington, D.C.; The National Conference on Soviet Jewry, New York, N.Y.; and numerous religious, ethnic, and humanitarian organizations in the United States and Europe.)

RELIGION IN THE USSR

I. Overview

Background

Both the Helsinki Final Act and the Madrid Concluding Document contain specific language guaranteeing freedom of religion. Principle VII of the Final Act pledges the participating States to "recognize and practice, alone or in community with others, his own conscience." The Madrid Concluding Document reaffirms this pledge and further pledges the participants to "favorably consider applications by religious communities of believers practicing or prepared to practice their faith within the constitutional framework of their States, to be granted the status provided for in their respective countries for religious faiths, institutions and organizations."

In addition to the passages of the Soviet Constitution referred to by Ambassador Shiffrin (cited above), the 1929 Law on Religious Associations requires that primary religious associations must register with local authorities. In practice, this allows the state to limit the number of religious associations, to reduce their number gradually, and even to deny legal status to an entire religious denomination. In short, the state can and does prevent Soviet citizens from practicing the faith of their choice.

"The Open Letter" reproduced in the Overview points out many, but certainly not all, of the specific ways in which the Party can restrict religious activity. Essentially, the law is structured to prevent the clergy or hierarchy from exercising effective control over church affairs. At the same time, it allows state officials to manipulate church activities and policies. For the churches, it is a no-win situation.

Atheist Pressures Continue

The regime enforces its policy through the Council for Religious Affairs attached to the USSR Council of Ministers. The Council monitors religious activities and is responsible for the enforcement of laws pertaining to religion. Its administrative regulations thus impose an additional level of restrictions on religious liberty. According to official documents of the Council and unofficial reports reaching the West, the Council supervises religious activities and senior church officials in minute detail; censors religious publications; passes on personnel selections; and even monitors sermons and biblical passages used in religious services. Clergy cannot legally practice their calling without the Council's approval. Whenever possible, the Council places the clergy in the position of acting against their direct responsibilities by forcing them to implement policies designed to weaken

and in time destroy religion: by closing churches "voluntarily," keeping silent when believers are harassed, and ignoring violations of law by the authorities. In general, the regime aims at compromising the integrity of clergy and religious institutions and at rendering organized religion and individual believers incapable of defending their interests.

Repression of Activists

Believers who refuse to register or comply with state controls become subject to a wide range of sanctions. Repeated violations of the Law on Religious Associations can lead to criminal charges. Articles of the (RSFSR) Criminal Code used against believers include those aimed specifically against religious activists as well as those used against political dissidents: Articles 142 (Violation of laws on separation of church and state and of church and religious rites), 227 (Infringement of person and rights of citizens under appearance of performing religious ceremonies), 190.1 (Slandering the Soviet state and system), or 70 (Anti-Soviet agitation and propaganda). In addition, articles involving general criminal violations are also used frequently, such as hooliganism, engaging in prohibited trades, parasitism, and others.

One of the most excruciating, yet dominant, themes of Soviet persecution targets children. All possible efforts

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Peace and Freedom

is the Communist Party of the Soviet Union ... The Communist Party determines ... the course of the domestic and foreign policy of the U.S.S.R., directs the great constructive work of the Soviet people, and imparts a planned, systematic and theoretically substantiated character to their struggle for the victory of communism. [Article 6]

—The Soviet State is organized and functions on the principle of democratic centralism ... Democratic centralism combines central leadership with local initiative and creative activity... [Article 3]

—Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interest of society or the state ... [Article 39]

—Citizens' exercise of their rights and freedoms is inseparable from the performance of their duties and obligations... [Article 59]

—Citizens of the U.S.S.R. are obliged to observe the Constitution of the U.S.S.R. and Soviet laws, comply with the standards of Soviet conduct, and uphold the honor and dignity of Soviet citizenship... [Article 59]

Alexander Shchepet points to the above provisions when he explains why the Soviets so painlessly ignore the content of an often-cited constitutional

far, there are countless others about which we have no information.

Thus the effort in the West to bring aid to persecuted believers behind the Iron Curtain is first and foremost based on prayer and a sense of solidarity, rather than facts which can be proven in a court of law. In such affairs the Soviets rarely subject themselves to a court which might rule against them, and all too often Western governments are all too eager to believe a friendly Soviet figure promising reforms and forget the suffering of the forgotten ones. In the view of many of those believers who have fled to the West, the sense of desolation brought on by the cooperation of Western powers with their Soviet oppressors... is the heaviest burden of their persecution.

Legal Issues

Given the rich fabric of diversity of the peoples subjected by the Soviet regime, the possibilities for oppression are legion. Ambassador Richard Schifter, U.S. Assistant Secretary for Human Rights and Humanitarian Affairs, identifies four key provisions of the Soviet Constitution which reflect the nature of the Soviet system, and which form the basis for the systematic repression of believers there:

—The leading and guiding forms of Soviet Society and the nucleus of its political system, of all state organizations and public organizations,

unconditionally released from prison and labor camps. More importantly, they were rehabilitated, which means they were officially declared to be innocent of any crime or wrongdoing. But just one year later, in 1966, almost all of them were again arrested, along with many other believers. The same thing had happened after the death of Stalin. In 1955-56, large numbers of Christian prisoners were released. But within two or three years, many were arrested again and sent back to prisons and camps."

To understand the extent of repression of religious believers in the Soviet Union, one must recognize the massive task which faced Alexander Solzhenitsyn when he tried to chronicle the horrors of the prison camps in the Gulag Archipelago. This work constitutes a monument to the combination of exhaustive research and a masterful sense of history.

Few people today possess that talent, and the closed Soviet system makes it all the more difficult to get valid information on the subject. Hundreds of independent churches, researchers, ethnic and religious organizations, and governmental agencies around the world have made efforts to gather and organize information on Soviet repression. Yet all discussions of the subject must be preceded by the observation that, for each case of suffering, imprisonment, torture, and murder that can be accounted

of the wide-ranging differences in circumstances among countries under Communist rule, the same employed to accomplish that final end vary widely.

In some Communist countries religion suffers under brutal and sustained terror so severe that it seems designed primarily to produce martyrs. Other Communist parties pursue their persecution of the Church in more subtle ways, feigning "moderation" in order to carry favor with important sources of economic assistance from the West and to identify targets for later persecution. Some "Human Rights" policies designed to report to such situations can actually reveal such calculated swings between persecution and "glasnost," such to the sorrow of the persecuted communities.

Independent Baptist Pastor Georgi P. Vire, an unusually brave man who was imprisoned for many years in the Soviet Union for his religious beliefs, now produces the *Prisoners Bulletin*, an authoritative chronicle of Soviet repression of religion. In a recent article, "Glasnost: What does it mean for Christians?", Pastor Vire comments on the periodic "freezing" of Soviet religious persecution:

"A look at the past can put today's events in perspective. In 1965, when Leonid Brezhnev became the leader of the Communist Party of the Soviet Union, large numbers of Christian prisoners were

guarantee of freedom of religion in the Soviet Union:

"Citizens of the U.S.S.R. are guaranteed freedom of conscience, that is, the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda." [Article 52]

The conflict comes when the believer is confronted with Article 27 of the Criminal Code of the Russian Republic, the Soviet Socialist Republic, or the corresponding section of the criminal code of any Communist country, which makes it a crime to participate in a group which "under the guise of preaching religious doctrine and performing religious rituals is connected with . . . inciting citizens to refuse to do social activity or to fulfill obligations." The penalty imposed on violators of this section is normally three years, for leaders five years.

Of course, legal texts cannot protect a subject of a Communist government if the Party does not want them to. Nonetheless, many believers in the Soviet bloc, recognizing the importance to "world opinion" of the rule of law, attempt to remedy the Communist oppression of religion legally. On September 11, 1987, a group of 38 believers petitioned Party Secretary Gorbachev to implement the legal changes which would make freedom of religion and

freedom of conscience a reality in Soviet life.

This letter is notable not only because of the bravery of its authors, but also because it provides a concise, comprehensive checklist of the dozens of means of religious repression available to any Communist government. All the repressions of religion experienced in the countries of the Soviet bloc which will be discussed in the following sections represent variations of the themes articulated in this letter.

Summary of Open Letter Regarding Necessary Changes in Legislation on Religion

(published in *Nazce naskore slovo*
(New York), October 11, 1987)

The thirty-eight signers of this open letter began by saying that, in a period of restructuring of Soviet society, the time has come to examine the position of the Christian Church in the Soviet past and present. They claim that at the present time, for legal reasons, the Church is effectively denied an active role in national life. This is especially true since the Communist Party of the USSR is officially an atheistic body. They suggest eleven specific changes, and mention that these have been developed in accordance with agreed-upon

international standards and agreements such as the Helsinki Final Act. They also insist that any new legislation consider religion not a psychiatric condition requiring hospitalization — a procedure much abused in the past when believers were interned in psychiatric hospitals for their religious belief.

1. To grant the church and religious organizations the status of legal entities.

2. To change the decree on the nationalization of church property. They mention that property such as buildings, icons, relics, etc., should be returned to the church.

3. To change Article 52 of the USSR Constitution to permit both anti-religious as well as religious propaganda, both religious and anti-religious organizations.

4. To change the regulation of April 8, 1929, that forbids charitable work by churches and religious groups. The authors mention that churches should have the right to conduct charitable work among the needy and that clergy should have the right to visit the sick in hospitals, and prisoners. Further, they say that believers in penal institutions should have the right to wear religious medals and have access to religious literature.

5. To give churches complete freedom to preach and provide religious instruction. To permit churches to use the mass media and to be able to freely publish religious works. To permit the establishment of independent religious printing- and publishing-houses, and of open, freely-accessible public libraries containing religious literature.

6. To permit religious education, and the establishment of Sunday schools and other religious educational bodies for children. They note that all Christians, including children, should have the right not to go to work or school on major religious holidays.

7. To grant churches and religious bodies the rights enjoyed by other organizations in the USSR — to be represented in regional and national governments, to own property. To permit broader participation by religious bodies in national life.

8. To review the autonomy enjoyed by religious bodies and guarantee freedom from government interference in internal church affairs. To protect the churches from discriminatory taxation policies and laws.

9. To not prevent the development of relations and contacts with international church bodies or individual believers outside the USSR. To permit pilgrimages to holy places located outside the USSR,

Freedom Sunday Rally Means Big Point

Without a doubt, Freedom Sunday for Soviet Jews was the most remarkable out-purging this country had ever witnessed on behalf of a Jewish issue. People came from all over the US and Canada, on the eve of the Summit, to proclaim their support for the rights of a minority, in a distant land, struggling for freedom and their basic human rights.

The rally had a tremendous impact on several groups including: a) refugees in the USSR who were able to hear the demonstration broadcast live on the Voice of America, which is no longer jammed; b) people who attended the rally and have not previously been involved in Jewish concerns; c) US officials whose commitment to free Jewish emigration was reinforced by the showing of popular support; and d) Soviet officials who both privately and publicly noted that the American people have "made their views known."

Some Restricting Shifts in Emigration

While Mikhail Gorbachev was debating the possibility of any major changes in the overall human rights issue, some modest, but positive shifts affecting emigration were discerned, perhaps in conjunction with the Summit. There is some easing of the first-degree family restriction as a requirement for invitations to leave. Indeed, in some

placelottesmen overwhelmed the few dozen peaceful protesters, pushing and shoving them off the triangular park at Sokolniki Square. That same day, nearly a quarter of a million people marched and peacefully assembled on Freedom Sunday, in Washington, in support of Soviet Jews. Many of the speakers at the rally later on the Mall denounced the crackdown in Moscow, which was widely covered in the Western media.

While a number of the Moscow demonstrators were detained for several hours and released, Jews in Leningrad were prevented from participation in a planned demonstration in that city. Among them were refugees who gathered in the apartment of Arnold Shepelman, and were put under house arrest. Other prominent refugees, Lev and Marina Flumen, did manage to reach the demonstration site but were immediately arrested and taken to court where Lev was sentenced to ten days' detention and Marina fined 50 rubles.

Just two weeks before the Summit, the KGB broke up another demonstration in Moscow outside the All Union OVR (Visa Office). In addition to fines of up to 50 rubles, several refugees were jailed including Leonid Travin (five days), Mark Kaplan of Minsk (ten days), and Valery Fedorov (ten days), Yuri Goldin (fifteen days), and Igor Chernobayev (ten days), all of Leningrad.

although thousands of refugees were still waiting for their release from the Soviet Union, and many for more than ten years.

The first kosher take-out restaurant was opened in Moscow, and the first officially sanctioned Hebrew courses were approved in Basel, in the Soviet Republic of Azerbaijan. But these developments were tempered by the continued refusal of authorities in Moscow and other major Jewish centers to permit the legal registration of Hebrew lessons or study sessions on Jewish history and culture.

Some analysts saw the overall picture for Soviet Jews improving somewhat, as demonstrated in the increases in the emigration and the decrease in the prosecution of refugees. For the first time in the Soviet Union, "refugees" - those refugees denied visas on grounds of knowledge of "state secrets," held an unofficial symposium in Moscow to draw attention to their plight. The KGB did not try to prevent the symposium, nor did they attempt to prevent the participants or Western media from attending.

KGB Thwarts Demonstrations

The signs of "permissiveness," however, stood in stark contrast to the disruption of a demonstration by refugees in Moscow on the eve of the December US-Soviet Summit meeting in Washington, where hundreds of KGB

and permit emigration from the USSR for reasons of religious belief and conviction.

10. To permit alternatives to military service for conscientious objectors, for those religions in the USSR that oppose bearing arms.

11. To permit the activity of biblical societies in the USSR.

The writers conclude by stating that "we assume that our proposals will be attentively examined by you, and that we will receive an answer to them within the time period established by law."

II. 1987 YEAR-END SURVEY ON SOVIET JEWS - AFTER THE WASHINGTON SUMMIT

From the National Conference on Soviet Jewry

Submitted to Secretary of State
George P. Shultz, January 6, 1988

1987 was a year of change in US-Soviet relations, as well as in the status of Soviet Jewry. During 1987, 8,155 Jews emigrated from the Soviet Union - substantially higher than the 914 Jews permitted to leave in 1986, but still far less than the 51,320 Jews who left in 1979 (see attached chart). The past year also saw the release of the last Jewish prisoner of conscience, Aleksey Negrak, a

Surprisingly, tourism between Israel and the Soviet Union increased, with individual Soviet Jews visiting relatives in Israel and vice versa. The Israeli paper *Makhlav* quoted reports from Moscow saying that an arrangement was posted on the doors of the Moscow OVR stating that those wishing to visit Israel may now apply to do so.¹

"Temporary visits between the Soviet Union and the United States have similarly increased. There were no reports, though, of refusals granted tourist visas to Israel or anywhere else."

Officially sponsored anti-Semitism, in the form of anti-Zionism, also diminished somewhat in the Soviet media. There were press reports suggesting the possibility that the Anti-Zionist Committee of the Soviet Public might be disbanded. Officials of the Committee have been strong advocates against Jewish emigration from the Soviet Union and have conducted a vitriolic propaganda campaign against "international Zionism." While the Soviet government has not been overtly critical of the nationalist and anti-Semitic group, *Pravda*, the December 22 issue of the Communist Party newspaper, *Pravda*, warned that illegal demonstrations against "chauvinistic organizations espousing 'anti-Semitic and Zionist' views would not be tolerated. The reference to Zionism has continued to appear over the years, alongside other expressions of "chauvinism," and has been used as a

report finds that the Soviet Union is alone among major developed nations in routinely concluding that ordinary citizens possess "state secrets" to justify preventing their leaving the country.

Cultural, Religious and Tourism Debarments

On cultural and religious issues, the kosher take-out kitchen at the main Moscow Synagogue recently became operational, as has an unofficial Jewish library set up in the Moscow apartment of Yuri Sokol. With the exception of the Hebrew classes in Baku, the teaching of Hebrew remained proscribed, as did the dissemination of Jewish cultural and religious materials in the Russian language, which is the only language spoken by the overwhelming majority of Soviet Jews.

In addition, while the Soviet Union has halted jamming of the BBC, the VOA, Vatican Radio and Radio France, Kol Israel (Israel Radio) is still being jammed, preventing Soviet Jews from receiving information concerning Israel. Similarly, Soviet authorities confiscated at least thirty titles and impounded 2,000 posters from the Israeli booth at the Sixth Annual Moscow International Book Fair. The September 11 issue of *Komsomolskaya Pravda* attacked the organizers of Israel's booth for alleged "unprincipled use of the facilities to disseminate their propaganda."

Finally, although there were very few new applicants in the beginning of the year, in part because of the restrictive provisions of a new law on entry and exit which became effective January 1, 1987, there has since been a dramatic increase in the number of letters of invitation requested by Soviet Jews from relatives in Israel as well as in the United States. This was most evident in the weeks prior to and after the Summit, possibly reflecting the more relaxed atmosphere between the superpowers, as well as the encouragement generated by the increase in permissions in the prior six months.

Most observers agreed, however, that the next few months are critical in measuring whether these anticipated modifications in Soviet visa policies are genuine moves by the authorities, or perhaps just gestures designed to mollify a hostile Senate into ratifying the INF Treaty, which was signed on the first day of the Summit meeting.

Still, one must conclude that even with the modest increases in exit visas, "the emigration law and practices of the Soviet Union," according to a report recently conducted by the International Law firm of White & Case, "are outside what may be safely regarded as the common core on which civilized nations agree and the common ground that has emerged under international law." Especially as regards state security restrictions, the

cities, from 25% to 30% of new applicants receiving permission did not have such invitations. There are signs of flexibility in the application of "regime considerations" or "state secrets" for many applicants, even though hundreds of long-term refusenik families are still in that category.

Last February, the Moscow OVR released a statement published in a local newspaper, *Vestnikskaya Moskva*, listing eight long-term refuseniks who have consistently been refused exit visas on state security grounds, and implied they would never leave. Three of the eight, including Vladimir Slapov, received permission to leave just before the Summit, while Alexander Lerner received permission after the Washington event. This demonstrated that security refusals were still being used as a mere pretext to restrict emigration in general. One US official expressed his hope that Moscow will continue to cut back on the use of "state secrets" as a barrier to emigration in the future.

There was additional speculation that the barrier of so-called "family obligations" might be subject to review. Just as the authorities let out a number of long-term refuseniks to placate American public opinion before the Summit, there is some indication that OVR may loosen the requirement family members remaining behind must give permission to their relatives who wish to leave the Soviet Union.

to light a different, but equally fundamental problem: our human rights concerns are normally expressed in a desultory fashion, and are sullied by the widely recognized opposition even within the State Department to the very notion of human rights "linkage" to matters of "real importance," such as arms control. Thus the Soviets assure they can tell us one thing and do another, not only because they have been accessibly doing it for years, but also because western advocates of the matters of "real importance" will conduct their apologetics for them. Only when the Soviets stand to lose an attractive concession — trade, for instance, or international financial support, or a major strategic concession from the West — are they willing to counterbalance the pleas of human rights advocates worldwide. Even on these occasions, the Soviets have been willing to address only those cases which do not deeply affect the ongoing realities of Soviet life.

For instance, U.S. policy focus on the emigration of believers represents a worthy concern, but is nonetheless a peripheral issue to the Party and to the tens of millions of believers who do not wish to emigrate, or have no hopes of ever doing so.

In the past, U.S. policy has met with some success in securing the rights of emigration referred to in the Helsinki Accords, and in freeing those who have

broken up with Moscow last October. Investigative printed a scorching response to the Senator which branded the Ukrainian Church "a foreign clerical grouping made up of emigres from the Ukraine," accusing them of "collaborating with the Hitlerite occupiers" during World War II. As far as the Soviet Union is concerned, the Ukrainian Catholic Church "voluntarily" joined the Russian Orthodox Church in 1946, and no longer exists.

Such instances of Soviet intransigence on religious questions abound. This stance is not a temporary attitude, susceptible to alabaster by sweet-talking emissaries, but a deeply-rooted policy stance based on an ideological assessment of the correlation of forces in the world. Clearly, the Soviets will not address this issue on its own merits. It must be linked to something they want even more. Any counsel against such linkage amounts to avowed condemnation of the religious believers in the Soviet Union to unending persecution, with the seal of approval of the United States and the West.

At the present moment, only the United States can present the Soviets with the circumstances that would invite a fundamental change in religious policy. And it can do so through the opportunity presented by consideration of this treaty.

The present opportunity also brings

	1984	1985	1986	1987	Total
Jan.	88	61	79	98	98
Feb.	90	88	84	146	244
Mar.	51	98	47	470	714
Apr.	74	166	72	717	1,431
May	109	51	49	877	2,108
Jun.	72	36	55	796	3,104
Jul.	85	174	31	819	3,923
Aug.	83	29	88	787	4,710
Sep.	69	93	126	724	5,434
Oct.	29	124	104	912	6,346
Nov.	55	128	102	910	7,256
Dec.	91	92	77	892	8,155
	886	1,140	914	8,155	

III. What Should U.S. Policy Goals Be?

In questions of human rights, the Soviets have consistently adopted an attitude of cynicism very similar to the callousness they have displayed in arms control verification matters. This approach was reflected in their murder of U.S. observer Major Arthur D. Nicholson in East Germany on March 24, 1985. They have never apologized to the family of Major Nicholson, much less the Government of the United States, for the 1985 incident. Nor have they asked their fundamental and abiding war against religion behind the Iron Curtain.

Their hostility towards the very mentioning of religious rights recently emerged when Senator Pat Buchanan referred to the beleaguered Ukrainian Catholic Church during a live television

continuing attack on individuals and organizations pressing for Jewish emigration.

These limited developments might signal a real Soviet policy modification, or may be merely a shift in tactics designed to diminish the sense of isolation and deprivation felt by Soviet Jews. At the moment, though, it is clear that glasnost has not brought an end to the restrictions on the Jewish emigration and cultural movements in the Soviet Union. At best, despite some positive and welcome changes, the measures taken in 1987 serve to highlight the fundamental problems which Soviet Jews continue to face.

SOVIET JEWISH RESEARCH BUREAU

Jewish Emigration From the USSR Statistics

Oct. 1968-1970...	4,235	1977...	16,736
1971...	13,022	1978...	26,864
1972...	31,681	1979...	51,320
1973...	34,733	1980...	21,471
1974...	20,628	1981...	9,447
1975...	13,221	1982...	2,688
1976...	14,261	1983...	1,314

From October 1986 - December 1987, 274,726 persons left the Soviet Union with Israeli visas. Approximately 165,817 of them went to Israel.

been imprisoned for their religious beliefs. However, if these issues remain the focus of U.S. concerns as we move into a new era of relations, the Soviet Union might well decide to meet our criticism head-on, releasing and immediately expelling the prisoners known by the West to be incarcerated for their religious beliefs (between two and three hundred), thus rid themselves of many of the Christian and Jewish figures they find most troublesome. Not only would such an action leave the oppressed religious communities deprived of their companionship and leadership of those expelled, it would also deprive the United States of a worthy issue and force us to find a new vehicle on which to pin our hopes for further reforms.

All the while, with a focus strictly limited to emigration, nothing would come to pass within the Soviet bloc which might improve the lot of the millions of believers of all faiths behind the Iron Curtain who are routinely denied even the basic elements of religious freedom. The focus of United States policy must now be brought to bear on these realities in Soviet practice: any policy measures adopted must be designed not only to help victims of religious oppression leave, but to be able to stay in their homeland and exercise their fundamental right to worship in the way they choose.

ALBANIA

Albania does not lie within the dominion of the Soviet Union, either geographically or politically. Nevertheless, until his death in 1986, Albanian Communist Party chief Enver Hoxha was Baroque's last surviving dictator from the Stalinist era. The total war on religion he waged for forty years is a textbook example of Lenin's means finding their consequences in the deeds of a Stalinist practitioner.

Today, the totality of religious repression in Albania sets a standard which other Communist countries can only envy; none have managed to emulate it. Yet contemporary Albania represents the fundamental dilemma confronting the Leninists: on the one hand, it represents the best model to date of the implementation of Lenin's program to annihilate religion; on the other, it is the home of Mother Theresa.

In 1982, Hoxha bragged to a Baroque visitor that Albania "had killed all the priests and the monks." For Hoxha, this was no idle boast. In the same conversation he also claimed that he had found it necessary to murder his own Prime Minister, Mehmet Shehu, at the dinner table in December 1981 because he could trust no one else to do it.

This account of Hoxha's ruthlessness

reflects the terror of Albania's overall approach to the extermination of religion: it is thorough, brutal, and unforgiving. Hoxha took power in 1944, and, by 1950, had killed all but one of the Catholic bishops in Albania. The Orthodox fared as badly. During the same period, two Orthodox Archbishops and three bishops were executed, some after lengthy torture.

Unfortunately, little accurate information escapes official censorship in Albania. Nonetheless we know that by 1975 the entire hierarchy and most of the clergy of the Orthodox Church were in prison. Of the three Catholic bishops alive in the 1970's, two died in captivity (one after torture), and the third, Nikoll Troshani, is presumed still to be alive. Albania's Communist rulers have succeeded more than any other Party in making their country safe for atheism.

The Baltic States

Batonia, Latvia, and Lithuania were forcibly annexed to the Soviet Union in 1940. In addition to the suppression of religion in these countries, the Soviet Union is also conducting "a systematic program of 'Russification' in the Baltic States by continuing resettlement there of a greater percentage of Russians relative to the native Batonian, Latvian, and Lithuanian populations," according to the State Department. In Batonia alone, which has a population of little

over one million, there are 150,000 Soviet troops stationed, more than in Afghanistan.

The churches of the Baltic States — primarily Lutheran in Batonia and Latvia, and Catholic in Lithuania — have been targets of unbridled persecution by the Soviets since 1940. Early on, many of the clergy and church leaders were imprisoned, killed, or exiled. Since then, Soviet law has been excruciatingly applied: no Bible groups, prayer circles, youth (or adult) organizations, or works of charity are permitted. All reading material must be approved by the state, which controls all forms of worship.

The most invidious of the state sanctions against religion involves the proscription on the teaching of the young. In 1965, 127 Lithuanian priests wrote to Secretary Gorbachev and charged the Soviet regime with failure to comply with Lithuanian law, the Soviet Constitution, Article 18 of the Universal Declaration of Human Rights, and Section VII of the Helsinki Final Act. Most importantly, the priests "specifically criticized Soviet actions which 'morally terrorized' children of religious parents for attending church, suppressed church rites and religious education, controlled the appointment of priests and bishops, and persecuted activist priests and believers."

Throughout the Baltic States, the Soviets are turning to a new method of

dealing with religious believers: they are forced to "emigrate" to the West. This practice is deplored by believers who recognize that the Soviets are taking away popular stepbonds from the faithful, while receiving the acclaim of "world opinion" for the "release" of these figures. One those leaders are gne, the Soviets often appoint successors, like Archbishop Eriks Meesters of Latvia. After accompanying Secretary Gorbachev to Washington on Dec. 8, Archbishop Meesters gave a Christmas sermon in Riga, Latvia, in which he praised Gorbachev as an "angel of light" and the "new messiah." The United States, the "force of darkness," had been conquered by Gorbachev, the Archbishop preached, because he had forced the United States to sign the new [INF] arms control treaty. It is no wonder that most Latvian clergymen objected when the Soviets picked Archbishop Meesters to succeed the deceased Archbishop Mikulis in 1987.

Religious persecution in the Baltic States is often joined to the general program of genocide involved in the "humanization" program outlined above. During the Chernobyl disaster aftermath, hundreds of Estonian workers were conscripted, transported to Chernobyl, and made to clean up the radioactive site with no more protection than paper masks and white jackets. Forced to live in tents, and to stay for several "turns of duty," many have returned home now to

find they manifest all the classic signs of radiation poisoning.

Bulgaria

Religious activity in Bulgaria is the lowest of any Warsaw Pact country, but that has not satisfied Communist Party boss Todor Zhivkov, the longest-reigning ruler in the Communist bloc (he came to power in 1972). Resentment of the Church in Bulgaria has been total: restrictions on all aspects of religious life are so severe, with opportunities for families to instruct their children in the faith so limited, that most church life has been stifled.

Since 1972, Zhivkov has tried to use the Church, especially the majority Orthodox Church, to further the Bulgarian Party's aims at home and abroad. Even though the Orthodox Church tries to cooperate with the regime, several hundred Orthodox clergymen have been imprisoned, tortured, or killed for practicing their faith beyond the narrow bounds permitted by the Party, which interprets all legal provisions, including the meaningless constitutional guarantee of freedom of religion.

Other denominations — Catholics, Protestants, a small number of Jews, and over a million Islamic Bulgarians and Turks — have received even harsher treatment than the Orthodox. Because of

the involvement of the Bulgarian secret police in the attempt on the life of John Paul II in 1981, the government clamped down mercilessly on Bulgarian Catholics, in response to the worldwide outcry against Bulgaria following that event.

Bulgarian Protestants number some 20,000, and the Jewish population numbers some 5,000, down from over 50,000 during World War II, when pre-Communist Bulgaria served as a haven for many of them. Today Sofia's only synagogue is run-down and frequented by only a handful of worshippers.

The largest religious group besides the Orthodox includes over a million Bulgarian and Turkish Muslims. Because, the regime considers the Islamic faith more deeply-rooted than Christianity, pervading all facets of life, the persecution of Muslims surpasses that of any Christian sect. Bulgarians of Turkish descent are forced to change their names to acceptable Bulgarian forms, and are fined if they speak Turkish anywhere outside the home. Virtually no Islamic practices, from the pilgrimage to Mecca to simple burial rites, are permitted.

Czechoslovakia

Czechoslovakia has a cultural heritage quite distinct from most other countries in the Soviet bloc. It is primarily Catholic, like Poland and Hungary, but it was the most westernized

of the European nations occupied by the Soviets after World War II. [In fact, the first German university was not in Berlin or Vienna, but in Prague.] Czechoslovakia's advanced state of development and culture at the time of its subjection to Communist rule involved a combination of the methods of repression different from those implemented elsewhere in the Soviet Empire, but the underlying theme was, and remains today, the same: complete control of religion, co-opting religious groups where possible, and debilitation (with an eye towards eventual annihilation) of those groups which do not amount to state control.

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Czechoslovakia's religious repression reflects the profound impact of the "Prague Spring" of 1968, when Alexander Dubcek, the Communist Party leader at the time, introduced liberalization which eventually resulted in the invasion of the country by Soviet troops. Since then the Party has aimed at nothing less than control of every aspect of political, social, economic, and cultural life. During the twenty years before Dubcek's fall, aggression of religion had already reached totalitarian levels, so the pattern for total control had already been established.

Czechoslovakia's Communist Party never pretended to establish the separation of Church and State. Since

1960, all churches, congregations, and religious activities were under control of the state Office of Religious Affairs. A minimal amount of priests are allowed, virtually every religious activity is curtailed or forbidden, and a predominantly elderly clergy is slowly dying out.

The 1977 proclamation of "Charter 77," a document designed to challenge the Communist Government to abide by the agreements signed in Helsinki in 1975, resulted in even more oppression. But it also introduced a new sense of bravery into the religious faithful, who realized that the Church might die or go completely underground if the government repression continued unabated. The Charter movement allowed an alliance to form among many groups suffering human rights violations by the government, and was further emboldened by the election of Pope John Paul II. Even though the Catholic hierarchy had been brutalized earlier in the 1970's, Cardinal Tomshek, inspired by John Paul II, became much more vocal in condemning the abuses of the government after 1978.

Nonetheless, the Catholic Church (with 10 of Czechoslovakia's 15 million population as believers) suffers great persecution in Czechoslovakia. Protestant and Evangelical sects, far fewer in number than the Catholics, also suffer considerably. The situation has reached a point of gravity at which many

believers have gone underground. The emergency *Samizdat* press regularly features many religious themes in its very lively debate on all aspects of intellectual and political life in Czechoslovakia. However, the underground church poses a special challenge to the government because its very existence defies the government's claim to absolute control of religious affairs.

An interesting preamble to the 1988 celebration of the millennium of Christianity in Kiev Rus took place in July 1985, on the eleven hundredth anniversary of the death of St. Methodius. Tens of thousands of Czechoslovak Christians signed petitions inviting Pope John Paul II to the Moravian shrine of Velehrad for the celebration, but the government imposed impossible conditions for his visit. Cardinal Tomshek, by this time well into his eighties, solemnly and publicly rebuffed the government for its repression of religion, its policies, and even its interpretation of religious history. He blamed the government for imposing a "state of siege."

To counter this, the government conjured up a 3-day Rosen-*style* affair conducted by approved "religious" personnel and attended by representatives of the sympathetic World Council of Churches. Nonetheless, on April 10, 1985, 1000 priests — a third of the Catholic clergy — demonstrated their

solidarity with Cardinal Tomshek at Velehrad, where they were joined by 7,000 believers. These Cardinal Tomshek read a letter from the Pope, which included the exhortation "in the spirit of St. Methodius, to continue intrepidly on the path of evangelization and testimony, even if the present situation makes it arduous, difficult, and even bitter."

The event turned into what the government most feared — a religious celebration where each government-sponsored speech honoring the "cultural" Methodius was met with cheers for Saint Methodius, for the Pope, and for the Mass. For the first time, Czech and Slovak Catholics combined to manifest their solidarity in the face of overwhelming government opposition.

The Communist Party in Czechoslovakia has tried every possible means of repressing religion and has failed. Even the crude attempt to start an "enlightened," pro-government Church group called "Peace in Towns" ("Peace on Earth," after a famous ecumenical written by Pope John XXIII) failed miserably.

The Czechoslovakian government, in brutally combating the Church, has strengthened the faith of millions of suffering believers in that country. But the repression will no doubt continue, unless the fundamental policies of the

government are changed to conform to the norms of the Helsinki Accords and other internationally adopted norms of religious freedom.

East Germany

The Communist regime in East Germany is renowned the world over for its expertise in efficient repression. According to the State Department's Country Reports on Human Rights Practices for 1986, "the G.D.R. continues to restrict the fundamental freedoms of thought, speech, religion, assembly, and travel. A large secret police apparatus, which is supplemented by informers, quans mail, installs listening devices, places people under surveillance, subjects them to interrogation and intimidation, and arrests them without due process."

East Germany is the only predominantly Protestant country in Eastern Europe, and its government promotes official atheism more assiduously than any other Soviet bloc country. The level of general oppression is so great that it is difficult to discern an even greater level of religious persecution, but it exists. The Lutheran Church comprises some 25% of East Germany's 16.2 million people, and all believers are subject to pervasive discrimination with regard to education, work, housing, and other basic circumstances of daily life. This program is very effective at intimidating young people from association with a

religious group. In fact, the April 1965 Synod in East Berlin complained that members of the secret police were taking children out of their homes and promising them coveted university education in exchange for information on the religious involvements of their families.

East German churches can and do accept financial help, within limits, from churches in West Germany. For the Communist Government, this provides much-needed hard currency, obtained by the government in exchange for local currency given the churches for their works of the social apostolate. Thus the churches are allowed some freedom in the area of social services, as well as in ecclesiastical appointments and educational matters, but the government insists that no religious activity be conducted outside the official government church-related agencies. The programs of surveillance and intimidation effectively serve that end, and there is precious little free religious activity in East Germany of any kind.

HUNGARY

Religion in Hungary still reverberates with the lessons of the revolution of 1956, when the United States remained aloof during the Hungarians' uprising against Communist rule. When the Soviets were asked that no western intervention would impede their reaction, 20,000

Soviet troops rolled into Budapest with tanks and armored cars, inaugurating a chilling wave of repression. To this day, Hungarian religious life has not recovered from the suffering inflicted by the Soviets and the Communist Party in the wake of the 1956 uprising.

Following Soviet domination of Hungary at the end of World War II, the Communists zeroed in on the churches as the foci of Hungarian tradition and nationalism. Their primary target was Cardinal Josef Mindszenty, the Primate of Hungary, who was subjected to torture and sent to prison after a show trial in 1949. In the following years, most religious orders were suppressed, half the nation's churches were taken over, and hundreds of clergymen were jailed.

The Hungarian people exhibited great bravery when they became the first country to revolt against Communist suppression in 1956. After this failed, however, and with Cardinal Mindszenty effectively silenced in his asylum in the American Embassy in Budapest, the Hungarian Church was significantly weakened by government repression. A vast network of secret police, collaborators, and surveillance was inflicted on the Church, and internal conflicts were created or exacerbated by the State to weaken it. By 1976, Vlasov's Cardinal Koenig bemoaned the situation in the Hungarian Church: "Feelings of doubt, anguish,

disappointment, and despair fill the hearts of the faithful, especially in the cities."

Catholics constitute some 60% of Hungary's population, but only about a quarter of them are active. The next largest church, the Reformed Church, represents some 10% of the country's 10.5 million inhabitants. The State Church Office oversees every aspect of Reformed Church life, as it does the Catholic Church. Unlike other Soviet-dominated countries, however, the activities of smaller sects are allowed to proceed without major disruption. The regime even recognizes the claims of "heretical sects" from these sects, but has recently indicated a fear that Catholics might begin to claim the same sort of faith as a means to protest the harsh draft laws, often used to discipline religious "offenders."

Hungary's condition today indeed reflects Cardinal Koenig's view voiced in 1976. The experience of 1956, where western intervention provided a tacit seal of approval for the brutal Soviet invasion of Hungary, has left an indelible impression on the Hungarian people. Today Hungary has the lowest birth rate and the highest suicide rate in the world. Hungarian society has paid a stiff price for the Communist war against religion.

Rolland

The Solidarity movement in Poland

represents all that Communism has tried to exterminate in every country it has ever conquered. In Solidarity are bound up the spiritual, historical, and social realities that collide head-on with the notion of the "new socialist man," the atheist ideal enshrined in the constitution of every Communist country.

Solidarity was founded by Polish workers in August 1980, when they put pictures of John Paul II and the Madonna on the gates of the Gdansk shipyards and demanded the dignity of the worker as persistently articulated by Pope John Paul. In confrontations with the Jaruzelski government, Solidarity, the Church, and the Polish people are one. A tremendous faith and tradition provide the resiliant strength demonstrated in Poland during the past ten years, and it is clear that, as far as Jaruzelski is concerned, when the Communist government persecutes Solidarity, it persecutes the Church.

The imposition of martial law on December 13, 1981 made Solidarity illegal, but those leaders who were not imprisoned immediately went underground, unable to find those who were in hiding. The Jaruzelski secret police constantly harassed, and frequently brutalized, priests who were sympathetic to Solidarity. Bishop Kazimierz Kuz and Father Hieronim Lomaczynski were killed in 1982 and 1983, respectively, under circumstances which point to the involve-

part of the secret police. Many other priests were beaten, and hundreds have been threatened, for their support of Solidarity.

The most flagrant murder of a priest, gained international attention when Father Jazy Rpieluszko was tortured and murdered by four state security officers for his unswerving support of Solidarity members' religious and human rights. After this murder, the outcry against the regime so intimidated Janczeluski that he found it necessary to bring some members of the secret police to trial. Four lower-level officials were eventually given long sentences.

Unfortunately, U.S. policy at the time of Father Rpieluszko's murder was so intent on the normalization of relations with Janczeluski that the U.S. proceeded to withdraw its objections to Poland's entry in the International Monetary Fund less than two months after Father Jazy was killed. Janczeluski's response was predictable: in December 1987, the Communist government, exhibiting the callous criticism it has always heaped on Solidarity, included all four of those sentenced for Father Rpieluszko's murder in an amnesty that was originally designed to apply to those guilty of the political "crime" of being active in Solidarity.

1988 will be a critical year for Poland. On the one hand, the United States has given the

government a firm vote of support, removing all the sanctions imposed after the 1981 martial law (in spite of Janczeluski's refusal to restore Solidarity's legal status) and allowing the restoration of full diplomatic relations at the ambassadorial level. The Polish people, on the other hand, have shunning reservations. According to the Washington Post of January 7, 1988, an authoritative survey in Poland "found that 80 per cent of Poles have entirely negative opinions about the current government and 60 per cent think there are reasons for 'a serious explosion [and] open social conflict' in Poland this year."

Romania

Romania suffers one of the most brutal dictatorships in the Soviet bloc, and the religious communities have not been spared. Communist Party Chief Nicolae Ceausescu employs a combination of repression at home and diplomatic overtures abroad to strengthen his hold on all aspects of Romanian life. While the Orthodox Church is very active, and Romania has the largest and fastest-growing Baptist population in all of Europe, Romanian believers have to brave a broad network of hatred, manipulation and repression in order to practice their faith.

Romania and Ceausescu represent the Communist bloc's most abject attempt to

orchestrate international human rights concerns for the benefit of a Communist government. Romania's "independence" from the U.S.S.R. is the basis for its Post-Fascist Nation (PN) status, and Ceausescu has learned the value of manipulating political prisoners in international diplomacy, first imprisoning them, then disclosing their existence, and then bargaining with them for future economic benefits.

Romania's Orthodox Church, which represents 80% of the population, and 13 other religious bodies are officially recognized, and closely regulated by the Department of Cults. Catholics, the Lord's Army, and some small Protestant and Orthodox groups are not recognized, however, and are severely persecuted because of their lack of legal status. Those who survived the prisons during the post-war period, like the Reverend Richard Winkler, a valiant Lutheran pastor, brought testimony to the world that Romania's prisons for Christians were probably the worst in Eastern Europe.

The repression in Romania today carries on this tradition of throttling persecution. In spite of government denials, firsthand witnesses have attested to the systematic destruction of churches and synagogues throughout Romania. At one point, the government seized "illegal" Bibles (virtually none are allowed) and

repressed them into toilet paper. Nonetheless, believers in Romania manifest a strong and growing faith. The Baptist churches are growing at a rate of 1% a year, and persecution seems to encourage even greater bravery.

Moldavia

Moldavia enjoys a unique position in the Moscow-aligned Soviet bloc, since it is not a member of the Warsaw Pact. Nonetheless, its Communist government espouses atheism and incarcerates a surprising number of political prisoners, given its low-key approach to religious repression there.

Moldavia's variegated religious character is inseparable from the many nationalities which co-exist so uncomfortably within its relatively arbitrary borders. In addition to the many Christian denominations and ethnic populations within the country, the Islamic population (18%) has recently enjoyed a rise in religious activity and influence, since many of Moldavia's indispensable supporters on the international scene are from the Islamic world.

Moldavia's history under Communism was begun quite ruthlessly under Tito, whose "independence" from Moscow made his brutality more palatable to some western

deservers. While Tito never attempted to liquidate religion, his approach was equally repressive, but less predictable, than repression elsewhere in the Soviet bloc. Orthodox believers suffered greatly during the war, and have not yet recovered from the impact of hundreds of thousands of deaths during that time.

Tito's rule in Yugoslavia was autocratic, based on his belief (shared by many despots at the time) that the six independent republics would split apart without a strong, charismatic central leader. Since his death in 1980, the fear of the anticipated breakup has combined with economically depressed conditions to motivate Party leaders to

crack down on religion in unpredictable, often capricious ways. Show trials are often used by the Party to discourage religious "excesses," and the state has a well-equipped arsenal of repression with which to reach any desired target.

The post-Tito Yugoslavian leadership has been perplexed by one rather profound event in Medjugorje, where the Virgin

Mary is said to be appearing to children from the village there. Since the first report of these apparitions in 1981, hundreds of thousands of pilgrims have flocked to this tiny village from all over the world. At first the authorities tried to suppress the matter, but now Medjugorje provides Yugoslavia's single most visited "tourist attraction."

Economic Benefits to the Soviet Union:

Is it a collateral purpose of the INF Treaty, and follow-on arms treaties, to make it possible for the United States to help the Soviet Union become an economic superpower?

The much-publicized policy of perestroika (which is economic rather than financial restructuring) proclaimed by the General Secretary of the Communist Party of the Soviet Union, Mikhail Gorbachev, is directly related to the new atmosphere of détente associated with the INF Treaty.

The desire of General Secretary Gorbachev

and the Soviet leadership to rationalize Soviet industry and revitalize the Soviet economy requires establishing a closer economic relationship with the United States. Such a goal requires a lessening of military tensions. The INF Treaty will not make an ally of the Soviet Union, but it is a signal to allow the beginning of the economic integration of the two military superpowers.

THE TWO FACES OF THE INF TREATY

"The 'ifs' in all of these considerations are distressingly numerous--to an extent that mandates very great caution in trying to anticipate how global circumstances will evolve and how U.S. fortunes will be affected. The best-case outcome is exhilarating to think about: If the Soviets are in fact intent on real arms reduction and if perestroika succeeds and promotes less aggressive external Soviet behavior, a huge diversion of world resources away from armaments would result eventually, with enormous potential for improving the human condition pretty much everywhere. But there is a worst-case possibility as well: If the Soviets, as skeptics warn, have been operating in the INF negotiations primarily with the 'hidden agenda' of weakening NATO's capacity for flexible response; if, consequently, there is no follow-through to conventional-force reductions; if perestroika fails, for whatever reason; and if NATO countries are slow to perceive all these negatives, dangerous times lie ahead."

--Milton W. Hudson, Senior Vice President, Morgan Guaranty Trust Company of New York. Speaking before the National Economists Club of Washington, D.C., December 17, 1987.

Soviet Economic Crisis

Today the Soviet Union and its East European satellites are confronting a severe internal economic crisis. Part of the reason is that economic stagnation and decline are ongoing historical phenomena in the centrally planned economies of the Soviet Bloc. Part of the reason is the lack of hard currency within those economies to fund the processes of modernization. Part of the reason is the relatively large debt incurred by the European Communist Bloc due to large and continuous borrowings over the past decade. Part of the reason is the enormous financial and economic drain on the Soviet Union's resources by the inexorable growth of their military establishment.

Soviet Analysis of the CIA as follows: 1975 (\$11.5 billion); 1980 (\$20.4 billion); 1981 (\$21.4 billion); 1982 (\$21.0 billion); 1983 (\$22.5 billion); 1984 (\$22.8 billion); 1985 (\$30.2 billion); 1986 (\$38.2 billion, preliminary). These statistics can be found in the selected papers published by the Joint Economic Committee in November 1987.

USSR Hard Currency Imports and Exports, 1970-86



This Chart and accompanying two tables, published by the Joint Economic Committee in late November, 1987, are taken from a CIA Study by the Office of Soviet Analysis. They are designed to explain in a graphic format the amount of hard currency Soviet imports and exports during the 1980's. They also illustrate the estimated Soviet hard currency balance of payments and the estimated Soviet indebtedness to the West.

requires access to Western credit. That is why IMF is important economically as well as strategically.

Obtaining access to Western markets is vital to Gorbachev's possibilities of success. His personal style and projection of a moderate, cooperative image is aimed at facilitating direct access to Western markets. The goodwill flowing from the glasnost image has assisted private trade organizations such as the US-USSR Trade and Economic Council in promoting expanded commercial relations between the two countries.

Owing to the systematic inability of its economy to perform, the Soviet Union has always relied on access to Western credit and capital markets. Banking institutions in the West have assisted the Soviet Union since the Bolshevik seizure of power in November 1917. The USSR maintains banking operations in a number of Western European countries, including England and Switzerland which have considerable financial influence in the free world.

The Soviets also have access to interbank deposits at very favorable rates, and they are presumed to be seeking membership in several international multilateral financial institutions such as IMF and the World Bank.

Soviet gross debt, combining commercial debt and government or government-backed debt, adjusted for fluctuations in exchange rates, has been estimated by the Office of

One of Gorbachev's major concerns is the problem of financing his program of perestroika. In 1986, Soviet hard currency earnings through the sale of gas and oil, gold, diamonds, other natural resources, and military equipment have been estimated at approximately 25 billion dollars.

Hard currency earnings from oil and gas sales by the USSR have been vulnerable to the high costs of production and distribution as compared with the relatively soft demand for many of its natural resources.

Even with respect to weapons sales, the Soviet Union's second principal source of income, competition from other suppliers such as Brazil and South Korea make the prospect of hard currency earnings an uncertain one in the future. Actually, Soviet weapons deliveries to the Third World, and to the USSR's ideological and political allies, have required subsidization by the Soviets and will continue to do so. Thus, hard currency revenues most likely will not increase from this source.

Hard Currency Problems

To place this situation in general perspective, the total 1986 Soviet hard currency earnings amounted to approximately one-quarter of the total 1986 sales by the General Motors Corporation. Undertaking a program of aggressive modernization with such limitations upon capital security

With respect to the latter indebtedness, the Soviets include in their own statistics oil sold in the West through the Cuban account, including oil swaps with Venezuela. Thus, the USSR has overstated its hard currency earnings.

Soviet Borrowings

The Office of Soviet Analysis of the Central Intelligence Agency has estimated Soviet net foreign borrowings, including additions to short term debt, as follows, in billions of dollars (a minus sign signifies a decline in the value of assets): 1975 (\$5.6 billion); 1980 (-\$1.730 billion); 1981 (\$954 billion); 1982 (-\$391 billion); 1983 (\$1.516 billion); 1984 (\$274 billion); 1985 (\$7.434 billion); 1986 (\$8,006 billion, preliminary). These statistics are also published in the selected papers released in November, 1987, by the Joint Economic Committee.

Precise assessments of Soviet and Soviet Bloc debt are impeded by a lack of sufficient reporting requirements for Western banking institutions. The primary lenders to the Soviet Union are United States, Japanese, West German, and British banks.

In many cases, Western loans and credits to the Soviet Union go unreported, owing to complex transactions undertaken by foreign branches, and by wholly or partially owned subsidiaries of major Western banks. In light of the unreported foreign exposures of

Issue
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Table 1. -USSR: Estimated Hard Currency Balance of Payments

(in billions of current U.S. dollars)

	1975	1980	1981	1982	1983	1984	1985	1986	1987
Current account balance	-4,481	1,619	-74	4,599	4,765	4,537	12	985	
Exports, f.o.b.	9,454	17,744	28,754	31,975	32,437	32,173	25,307	25,104	
Imports, f.o.b.	14,225	26,664	27,849	27,387	27,664	27,644	25,853	21,068	
Net services	-637	-995	-1,479	-972	-1,867	-1,189	-1,827	-2,130	
Other credits and transfers	748	890	1,800	1,100	1,100	1,100	1,100	1,100	
Capital account balance	5,729	-47	2,964	-3,353	-3,863	-3,863	5,107	8,096	
Net foreign borrowings ^a	5,600	-780	954	-391	1,516	219	2,335	3,200	
Official credits	1,500	-750	1,800	-1,100	-1,100	-1,100	1,100	1,100	
Commercial credits	2,027	2,341	2,972	1,863	2,726	2,726	2,726	2,726	
Reserve credits	527	2,503	2,972	1,863	2,726	2,726	2,726	2,726	
Commercial credits	4,100	-478	2,855	-1,492	1,104	-523	874	8,107	
Commercial credits	4,621	737	4,832	2,906	2,832	1,655	874	8,107	
Reserve credits	521	1,215	1,177	1,700	928	972	2,950	2,101	
Net change in assets held in Western banks ^b	290	-33	-189	1,962	1,049	-523	1,747	1,747	
Net credits to the USSR	715	950	870	2,170	3,700	2,700	1,700	4,100	
Gold sales	725	1,580	2,700	1,100	750	1,000	1,800	4,000	
Net assets and liabilities ^c	-739	-1,552	-2,890	-1,197	-2,782	-3,234	-3,799	-7,185	

^a Excludes

^b Including additions to short term debt

^c A minus sign signifies a decline in the value of assets

^d Includes hard currency assistance to the USSR and other countries, as well as assets and liabilities in other hard currencies

Table 2. -USSR: Estimated Hard Currency Debt to the West

(in billions of current U.S. dollars)

	1975	1980	1981	1982	1983	1984	1985	1986	1987
Current debt	11.5	28.6	31.4	21.6	22.5	27.8	30.2	38.2	
Commercial debt ^a	7.2	8.7	12.6	11.1	12.2	12.7	19.4	26.6	
Government and guaranteed bonded debt ^b	4.3	10.7	8.0	9.9	10.3	15.1	10.8	11.6	
Assets in Western banks	3.6	9.4	9.2	11.2	12.2	11.6	12.3	13.9	
Net debt	7.9	11.9	12.2	9.4	10.3	11.2	16.9	27.2	

^a Preliminary estimates

^b Includes all government bonded and guaranteed debt that has been adjusted for fluctuations in exchange rates. Commercial debt also includes estimates for primary and short term assets

Economic Benefits to the Soviet Union

U.S. banks servicing the Soviet Bloc, more precise information is needed to assist the congressional oversight necessary to promote a sound banking system.

Congressional concern has been raised in this area about the role of U.S. banks and their activities in the Soviet Bloc. Legislation for controlling credits extended to Soviet Bloc countries has been introduced in the Senate and the House.

Soviet economic reform and financial stability are thus critical elements to the success or failure of perestroika. The only successes in Soviet industrial and technological production have been those associated with armaments and aerospace, both fundamental keystones to the continued growth and dominance of the Soviet military establishment.

A restructured, more energetic Soviet economy, resulting from the Western ties fostered by perestroika, will make the USSR a far more formidable adversary than it is today. INF can well turn out to be a Trojan horse with the United States trading its long-term national security for short-run economic advantage. The West is about to

help build a new Soviet order which will inevitably result in a growing disorder and disarray among the NATO allies.

Soviet International Economic Program

The Soviets have been seeking to enhance their economic and financial situation at Western expense; ratification of INF will encourage them to embark upon the courses listed below:

1. Increased trade with the United States in hard goods including the purchase of materials and resources with military capabilities.
2. Increased trade with the NATO countries in hard goods including the purchase of materials and resources with military capabilities.
3. Application for membership in the International Monetary Fund (IMF), the World Bank (IBRD), the Asian Development Bank, and other international or Western multilateral economic and financial institutions.
4. Application for membership in the General Agreement on Tariffs and Trade

(GATT) and the Multi-Fiber Agreement.

5. Application for governmental and private trade subsidies from abroad.
6. Securing of access to the free world securities markets.
7. Securing of untied general purpose loans from free world commercial banks.
8. Securing of increased free world participation in Soviet energy-related projects.
9. Participation in inter-ministerial meetings on Western economic policy, including any West-East economic conferences held under the Helsinki framework.
10. Development of a formal relationship between the Soviet-controlled COMECON and the European Economic Community (EEC).

Any or all of the above approaches will have the dual effect of the strengthening of the Soviet economic system and the weakening of the Western economic and financial systems.

Cost to United States: What is the cost to the U.S. taxpayer in terms of weapons destroyed, implementation of Treaty actions, and redressing the conventional military balance in Europe?

At present, cost data on the implementation of the proposed treaty on intermediate-range nuclear forces has not been provided to the Committee. However, it appears that there will be substantial taxpayer expense resulting from the proposed destruction of 689 intermediate-range missiles and 170 shorter-range missiles of other types together with the reprocessing of approximately 859 nuclear warheads now on those missiles.

These costs will include the following:

- * the actual costs of missile destruction and warhead reprocessing.
- * the costs of verification.
- * the lost investment in research, development, test, and evaluation (RDTE), procurement, and personnel training, and military construction associated with each system to be eliminated.
- * the costs associated with lost employment and lost taxes.

* the sunk costs in civilian-owned plant and equipment which will no longer be utilized.

Obviously against these costs should be offset various savings including, for example, the savings in operation and maintenance expenses which will eventually accrue should these systems cease to be operated and maintained.

These savings, however, are likely to be minuscule if compared to the expense of raising conventional or chemical force levels to compensate for the conventional imbalance in NATO which will be exposed by the removal of the Pershing II nuclear shield.

Estimating the cost of redressing the conventional imbalance will be difficult, but it can be done through standard methods such as estimating current dollar cost of a so-called "division slice." A division slice is usually defined as the total expense associated with fielding a maneuver division, that is the cost of the division itself plus the cost of its support at corps, theater, and higher levels.

To rationalize the estimating process, it should be based on the assumption that parity is achieved when there is equality in maneuver divisions of various types between the following two force levels: 1) all NATO and U.S. divisions wherever based, and 2) all Warsaw Pact and Soviet divisions wherever based. The estimate should also include reserve divisions of both sides and assume full mobilization of both sides to obviate questions of division readiness categories in the case of the Soviet Union and Warsaw Pact and the various similar issues of division readiness in NATO and the United States.

Although this conventional upgrade cost estimate will be necessarily and admittedly abstract, it could nevertheless prove extremely useful to the Committee in developing a general concept of the potential long-term effect of the proposed treaty on the federal budget.

PURSUANT TO A REQUEST BY THE CHAIRMAN, THE SECRETARY OF STATE PROVIDED A DETAILED ANALYSIS OF A MEMORANDUM DONE BY SENATOR HELMS TO REPUBLICAN SENATORS OF THE COMMITTEE ON FOREIGN RELATIONS ON THE INF TREATY. THE SECRETARY'S ANALYSIS FOLLOWS:



United States Department of State

Washington, D.C. 20520

MAR 25 1988
FOREIGN RELATIONS

Dear Mr. Chairman:

I am pleased to respond to your letter of January 27 to the Secretary requesting a detailed analysis of points raised in Senator Helms' memorandum to Republican Senators on the Senate Foreign Relations Committee entitled, "Re: The Treaty on Intermediate-range Nuclear Weapons Does It Decrease--or Increase--the Danger of Nuclear War?"

Senator Helms' memorandum is faithful to his personal cover note in which he states that he directed the staff "to ask the hard questions, questions that will bring out the most searching examination." The Administration welcomes penetrating and comprehensive questions on the INF Treaty and intends its answers to assist the Senate in its careful examination of this historic agreement.

Senator Helms' memorandum raises a range of broad issues related to the Treaty such as its impact on NATO; its effect on the conventional balance, the Soviet compliance record; U.S. responses to any Soviet violations; linkage to other issues, such as human rights and Soviet behavior in the Third World; and economic and cost factors.

The testimony provided since January 25 by a succession of Administration officials has addressed these questions from various perspectives. In addition, the Administration has answered or is in the process of answering hundreds of questions on these subjects from several Senators, including from you and Senator Helms.

Thus, rather than replicating Administration testimony and these other written answers already provided, we have focused on the specific questions posed by Senator Helms in his memorandum. In this way, we have attempted to respond to the distinctive questions posed by Senator Helms' memorandum, many of which have not been addressed in previous testimony.

The Honorable
Clausborne Pell
Chairman,
Committee on Foreign Relations,
United States Senate.

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or in written answers. I am referring in particular to the 10 questions raised on page 48 of the memorandum and the some 240 questions contained in the Article-by-Article examination of the Treaty text.

Extensive work has been required within the Administration to provide fully coordinated and authoritative answers to these many questions. We hope that you will find the answers informative and helpful to you and your colleagues in your current deliberations.

Sincerely,

A handwritten signature in cursive script, reading "Edward Fox".

J. Edward Fox
Assistant Secretary
Legislative Affairs

Article II, para. 1

"GLBM: is a new phrase and concept. Why has it been created by this Treaty?

The term "ground-launched ballistic missile (GLBM)" is used in the INF Treaty to make clear that the only missiles covered by the Treaty are ground-launched. This usage is consistent with the long standing U.S. and Allied position that the INF Treaty should not restrict missiles of any basing mode other than ground-launched missiles.

Article II, para. 5 & 6

Are there Soviet ground-launched missiles which are capable of use in these ranges (1000-5500 km and 500-1000 km) but which are not covered in this treaty?

Essentially, all strategic systems of both the Soviet Union and the United States can perform INF missions. Indeed, the United States has, for a number of years, dedicated a portion of its ballistic missile submarine force to direct support of NATO.

Soviet strategic systems could do the same. The INF Treaty is not the solution to all of NATO's military problems, but the agreement is a positive step in the right direction. The Soviet Union deployed its theater forces for political as well as military purposes, i.e. for political intimidation and coercion during a crisis or conflict. The SS-20, because of its range, accuracy, mobility and triple warhead capability, was particularly threatening to NATO. The Soviet Union will be required to destroy these missiles under the INF Treaty, resulting in fewer nuclear weapons arrayed against NATO than there were in 1979, and fewer than there would be in the absence of an INF Treaty.

Article II, para. 5 & 6

The Treaty classifies missiles by maximum range. Should missiles be classified in this manner, or by minimum range?

The Treaty classifies missiles by both maximum and minimum range. The Treaty stipulates that an intermediate-range missile has a range in excess of 1,000 kms but not in excess of 5500 kms and that a shorter-range missile has a range equal to or in excess of 500 kms but not in excess of 1,000 kms.

Article II, para 7

Could missiles conceivably be located outside these "designated" sites?

Under the Treaty provisions, intermediate-range missiles shall be located in deployment areas, at missile support facilities or shall be in transit. Shorter-range missiles shall be located at missile operating bases, at missile support facilities or shall be in transit. An INF missile not at one of these locations would be in violation of the Treaty. While 100 percent certainty is not attainable, the INF verification regime provides an interlocking web of measures to deter cheating by raising the cost of cheating and increasing the likelihood that it would be detected.

Article II, para 7

Would "suspect" sites be covered by this definition?

We have long argued that the INF verification regime should be tailored to the detailed limitations of the Treaty. In the context of an INF agreement that would have permitted the United States and Soviet Union to retain deployed missiles and launchers capable of carrying 100 warheads, the United States proposed inspection of any site in either country where such -- missiles and launchers could be located -- suspect sites.

After the Soviets agreed to the United States preference for double global zero in July 1987, the United States re-examined its proposals for inspections of suspect sites. In light of the great practical difficulties from the point of view of our laws protecting private property, the need to protect sensitive installations and facilities, and the other extensive verification measures in the Treaty, we determined that on balance, in the context of double global zero, overall U.S. interests were served short of suspect site inspections. We agreed to short-notice inspections of formerly declared facilities. There is nothing in the Treaty to prevent us from raising questions about what we believe to be suspicious activities, whether they occur at a designated deployment area or not and we would pursue such concerns until we are satisfied.

The INF verification regime provides an effective deterrent to Soviet cheating. Under the INF Treaty after all INF missile systems are eliminated, the possession of any INF missile or Treaty-limited item would be a violation. The inspection regime incorporated into the Treaty enhances our ability to verify Soviet compliance. This means it would be more difficult for the Soviets to elude detection and to cheat. Specifically, former SS-20 facilities would be subject to inspection even if they were converted for use as SS-25 bases; the facility where SS-20's and SS-25's have been assembled will be monitored by U.S. inspectors; and the Soviets agreed on a cooperative measure which will enhance our ability to verify by NTM that SS-20's are not located at SS-25 bases which are not otherwise subject to inspection.

Article II, para. 8

Why are "missile operating bases" for intermediate-range missiles covered only if located in deployment areas, while "missile operating bases" for shorter-range missiles are covered regardless of where located?

Under the Treaty, intermediate-range missiles are permitted to operate within the deployment areas defined by geographic coordinates in the data MOU. The U.S. wished to maintain its ability to deploy missiles throughout their deployment areas in order to ensure the viability, effectiveness and survivability of those missiles throughout the period of reductions. In contrast, shorter-range missiles are not allowed to operate in deployment areas, but must be located either at missile operating bases or missile support facilities or be in transit to an elimination facility.

Article II, para 10.

Why is the definition of "transit" for intermediate range missiles different from the definition of "transit" for shorter-range missiles?

Transit is more restrictive for shorter-range missiles because of our verification concerns. They can be moved only from an operating base or support facility to an elimination facility. All shorter-range missiles and launchers must be located at elimination facilities within 12 months after the Treaty enters into force and must be destroyed within 18 months

Article II, para 11-14

Why is there a distinction between "deployment area" for intermediate-range missiles and "operating base" for shorter-range missiles?

No deployment areas are provided for shorter-range missiles, which are subject to more stringent geographical constraints than intermediate-range missiles. Shorter-range missiles may be deployed only at missile operating bases. This is in U.S. interests, since only the Soviet Union has any deployed shorter-range missiles.

Article III, para. 1

Does either party have ground-based missiles in Europe which are capable of intermediate-range use, but which are not among the missiles listed here and not covered by the treaty? Can these excluded systems serve the same functions as the systems eliminated by the treaty?

Strategic systems, wherever based, are not included in the INF Treaty but can cover targets in Europe. To do so would entail some costs. For example, diversion of strategic systems to INF tasks would mean diminution of strategic target coverage. Such Soviet systems, however, would not have the same political effect on Europe as the SS-20 since Soviet strategic systems are perceived as threatening both the United States and Europe while the SS-20 is viewed by many Europeans as threatening only Europe.

Article IV

This Article provides for the elimination of U.S. intermediate-range missile systems. Can this be done constitutionally without appropriate enabling legislation being passed by both Houses of Congress?

DOD already has the authority, without any need for new legislation, to eliminate weapons systems it no longer wishes to retain. In fact, the US has been eliminating missile and other defense systems for many years without any need for additional authority.

Article IV, para 1

This paragraph requires the parties to eliminate all intermediate-range missile systems as defined by the treaty. But does this requirement actually cover all ground launched missiles with intermediate-range capabilities possessed by the parties in Europe? Which such missiles are exempt?

The INF Treaty obligates both sides to destroy all ground-launched ballistic and cruise missiles with ranges of 500 kms to 5500 kms. See also answers to question on Article III, para 1 and Article XII, para 3.

Article IV, para 1

Will the warheads associated with the missile systems covered by the treaty also be destroyed? If not, what can the parties do with these warheads?

No, the INF Treaty obligates both sides to destroy INF missiles, launchers and their specified support equipment and structures, not nuclear warhead devices. By destroying the means of delivering INF missile nuclear warhead devices, the Treaty will remove the military threat posed by them.

-- For a number of reasons, the US determined that it would not be in our interest to eliminate the nuclear warhead devices.

-- Verifying the elimination of nuclear warhead devices (not to mention the production of new ones) raises formidable technical challenges and difficult security issues. Intrusive verification measures could disclose sensitive nuclear weapons information to the Soviet Union.

-- Finally, the nuclear warhead devices contain costly and scarce resources which it would be imprudent to destroy.

-- It was agreed at the Washington Ministerial in September 1987 that nuclear weapons and guidance systems would be removed from the reentry vehicles. The remaining reentry vehicle structure, minus the nuclear weapon and guidance system, would then be eliminated under agreed procedures.

Article IV, para 1

How many warheads (in numbers and explosive power) will the parties remove from the missiles covered by the treaty?

The sides will remove all warheads from missiles prior to initiating the elimination procedure. The data in the Memorandum of Understanding indicates that as of November 1, 1987, U.S. deployed missiles were capable of carrying 429 warheads while Soviet missiles were capable of carrying 1,667 warheads. Megatonage was not one of the measures included in the MOU.

Article IV, para 1

Is there anything in the treaty to prevent the Soviets from placing these warheads on ICBMs targeted at the United States? or on other missiles targeted at Western Europe?

The Treaty does not prohibit the United States or the Soviet Union from using these warheads for other missiles. But this could not be done without modification of the warheads or missiles.

Article IV, para 1

Do the parties have any support structures and equipment which are not in the MOU?

The MOU includes unique support structures and equipment which are used to support and deploy intermediate-range or shorter-range missiles or launchers. Other types of non-essential structures and equipment, such as general purpose buildings, are not included in the MOU.

Article IV, para 1

Are there 24 facilities associated with the SS-20 which the Soviets have failed to declare?

Any further information on this question is classified. We would be happy to provide you with the information in the appropriate form.

Article IV, Para. 2(a)

How many launchers of deployed intermediate-range missiles is "the amount capable of carrying out missiles considered to carry 171 warheads?"

The number of launchers will depend on the mix of systems. For example, the U.S. GLCM launcher is capable of carrying four missiles, each with a single warhead, and the U.S. Pershing II launcher is capable of carrying one missile with a single warhead. Thus, the number of launchers the U.S. will have at the end of the initial 29 month period of reductions is dependent on the mix of PIIs and GLCMs we have at that time.

Article IV, Para. 2(a)

How many deployed intermediate-range missiles is "the number considered to carry 180 warheads?"

The number of missiles will depend upon the number of warheads associated with the different types of missile systems. On the U.S. side, all INF missiles carry a single warhead. On the Soviet side, SS-20 missiles are considered to carry three warheads while the other Soviet INF missiles are considered to carry a single warhead.

Article IV, Para. 2(a)

Why is there a difference in number between deployed intermediate-range launchers (171) and missiles (180)?

The numerical difference between deployed intermediate-range launchers and missiles results from our requirement to maintain operational missile spares to support our deployed INF missile force.

Article IV, Para. 2(a)

How many intermediate-range launchers is "the amount capable of carrying missiles considered to carry 200 warheads?"

As with deployed intermediate-range launchers, the aggregate number of deployed and non-deployed launchers of intermediate-range missiles considered to carry 200 warheads depends upon the mix of missile systems in each Party's INF force 29 months after the Treaty enters into force.

Article IV, Para. 2(a)

How many missiles is "the number considered to carry 200 warheads?"

As with deployed intermediate-range missiles, the aggregate number of deployed and non-deployed missiles considered to carry 200 warheads depends upon the mix of missile systems in each Party's INF force 29 months after the Treaty enters into force.

Article IV, Para. 2(a)

What are the reasons why the ratio of GLBMs to total missiles in the first phase should not exceed the initial ratio?

The Treaty provides for steep asymmetric reductions on the part of the Soviet Union because the Soviets have a much larger number of INF missiles with triple warheads, from which they must begin their reductions. After 29 months the sides will be at equal warhead levels. In order to preserve U.S. deterrent capability, the provision explicitly allows the U.S. to retain Pershing II missiles and launchers throughout the elimination period (the Soviets had sought to force the U.S. to eliminate its PII force early in the reductions period). The U.S. can maintain its PII force at the same percentage level of the total U.S. INF missile force at the end of the first (29 month) stage of reductions as it had on 1 November 1987.

Article V

This Article provides for the elimination of U.S. shorter-range missile systems. Can this be done constitutionally without enabling legislation passed by both Houses of Congress? (see Art. IV)

DOD already has the authority, without any need for new legislation, to eliminate weapons systems it no longer wishes to retain. In fact, the U.S. has been eliminating missile and other defense systems for many years, without any need for additional authority.

Article V, Para. 1

Does this section cover all ground-launched missiles with shorter-range capabilities possessed by the parties in Europe? If not, what missiles with such capabilities are exempt?

Shorter-range INF systems, i.e., those with ranges between 500 km and 1000 km are to be eliminated. Both the U.S. and Soviet Union, however, have ground-launched missiles in Europe with ranges shorter than those covered by the Treaty. All ground-launched missiles with ranges below 500 km are exempt.

Article V, Para. 1

Does either party possess support equipment not listed in the MOU?

The MOU lists support equipment for shorter-range missiles which is unique to the shorter-range missile systems covered by the INF Treaty. It does not include equipment which is not unique to those missile systems.

Article V, Para 2

Why is there a difference in time for the removal of deployed and non-deployed missiles (90 days v 12 mos.)?

In order to ensure that shorter-range missile systems are removed from operational status as rapidly as possible after entry into force, the Treaty requires that deployed shorter-range missiles and all deployed and non-deployed launchers of such missiles be moved to elimination facilities within 90 days after entry into force of the Treaty.

To further degrade their operational capability, the Treaty requires that there be separate elimination facilities for shorter-range missiles and launchers, no less than 1000 kms apart. Given these restrictions, the U.S. agreed to allow the Soviets an additional 9 months to move their numerous non-deployed missiles to elimination sites as without launchers these missiles posed little threat to NATO's security.

Article V, Para. 3

Why must elimination facilities be separated by 1000 km?

The separation of missile and launcher facilities was a U.S. proposal designed to ensure that shorter-range systems lose their operational capability and military effectiveness as soon as they are moved into elimination facilities. Separation by the substantial distance of 1000 kms would make the reconstitution of an SRM force logistically difficult and ensure high confidence of detection.

Article V, Para 3

Are the elimination facilities for intermediate-range missiles also subject to this 1000 km requirement?

No. The U.S. proposed, and the Soviets eventually accepted, more rapid and stringent elimination procedures for shorter-range missile systems than for intermediate-range missile systems.

Article VI, Para 1

Why are launches of intermediate-range missiles not prohibited, as is the case with shorter-range missiles?

For logistic reasons, the U.S. agreed to allow launches of a limited number of intermediate-range ballistic missiles (100) during a brief time span (the first six months of the reductions period). The Soviets maintained that a certain number of their much larger force of intermediate-range missiles needed to be eliminated by launch in order to be able to eliminate that force within the 3-year period proposed by the U.S.

Article VI, Para. 1

Are the launches of intermediate-range missiles permitted only for the purpose of elimination?

Yes.

Article VI, Para. 1

How do "launches" which are permitted for intermediate-range missiles differ from "flight-tests" which are prohibited, and how can we verify this distinction?

The Elimination Protocol contains detailed provisions for the conduct of launches for purpose of elimination. These provisions include, for example, a prohibition against transmission or recovery of data except for unencrypted data for range safety purposes. In any case, given the limited number of permitted launches for elimination (100 IRMs), the tightly constrained time period (only the first 6 months after EIF) and the ban on telemetry broadcast for flight-testing purposes, launches for elimination would have little utility as substitutes for flight-tests. Our monitoring capabilities and rights to on-site inspection will allow us to determine whether a launch for elimination has been used as a prohibited flight test.

Article VI, Para 2

This paragraph provides the exception to para 1 "provided that the party does not produce any such similar stage." Why is there this restriction?

The Soviets stated that the first stage of the SS-25 (which has a range capability greater than 5500 kilometers and is thus not covered by the INF Treaty) is outwardly similar to, but not interchangeable with, the SS-20 first stage. As a result, there is a provision in the Treaty that permits the production of one stage (the SS-25 first stage) that is outwardly similar to, but not interchangeable with, a first stage of a banned missile (the SS-20 first stage). At the same time, a Party may not produce "any other stage which is outwardly similar to, but not interchangeable with, any other stage of an existing type of intermediate-range GLBM." This provision prevents the Soviets from producing SS-20's under the guise of two "outwardly similar" stages.

Article VI, Para 2

What "type of GLBM" uses a stage outwardly similar to, but not interchangeable with, a stage of a GLBM covered under this treaty? (for each party)?

The Soviet SS-25 missile.

Article VI, Para. 2

Why are the parties permitted to produce these nearly identical stages?

The INF Treaty does not apply to missiles with ranges below 500 kms. or above 5500 kms., thus it does not limit Soviet ICBMs. The references in Article VI to a stage "outwardly similar to, but not interchangeable with" a stage of an intermediate-range missile take into account the outward similarity between the first stage of the SS-20 and the first stage of the SS-25. Because of this similarity, the U.S. pressed for and achieved stringent verification provisions including portal monitoring at the facility which assembles the SS-25 to help ensure that SS-20's are not exiting that facility in the guise of SS-25's. All SS-25 missiles exiting the Votkinsk facility will be subjected to stringent examination.

Article VI, Para. 2

Can these nearly identical stages be used for the same purposes as the stages eliminated by the treaty?

They may not be used as stages on missiles eliminated under the terms of the Treaty.

Article VI, Para 2

How do we verify that the stages permitted to be produced by this paragraph are indeed "not interchangeable" with stages prohibited from production by this treaty?

Our aim is to ensure that for as long as the Soviets continue to produce the SS-25 ICBM, no SS-20s can leave the final assembly facility in the guise of SS-25s. The monitoring of the SS-20 elimination, the monitoring procedures established by the Treaty at the SS-25 final assembly facility at Votkinsk, the on-site inspection regime at all former SS-20 bases converted to SS-25 bases, enhanced NTM at other SS-25 bases, our basic NTM capabilities, and the zero level environment all combine to help ensure that SS-20s are indeed eliminated and that the Soviets do not acquire a reliable and viable illegal SS-20 force.

Article VI, Para. 2

Could warheads be removed from missiles to be eliminated under this treaty be reloaded onto this other "type of GLBM?"

Both the U.S. and Soviet Union can remove nuclear warhead devices from missiles to be eliminated under this Treaty and use them for other purposes. They cannot, however, in practice be simply "reloaded" onto another GLBM.

Article VII, Para. 1

How do we know what's been "flight-tested or deployed?"

NTM are used to determine whether a ballistic or cruise missile has been flight-tested or deployed.

Article VII, Para. 1

Which missiles are effectively covered under this paragraph, and which are not?

Any system which meets the definitional requirements of the Treaty, i.e., is a ground launched ballistic or cruise missile, has been tested or deployed for weapons delivery and has a range between 500 and 5,500 kilometers would be covered by the INF Treaty (unless it falls under a specific exception provided in the Treaty, such as GLBMs or types developed and tested solely to counter objects not located on the surface of the earth). Whether a newly developed system meets these criteria will be judged on a case-by-case basis.

Article VII, Para. 2

Should this paragraph cover all GLBMs and GLCMs possessed by the parties in Europe with intermediate- or shorter-range "capability?"

The paragraph covers all GLBMs and GLCMs with a range between 500 and 5,500 km, that is, all U.S. and Soviet INF missiles. It does not cover systems with a range greater than 5,500 km. We are now negotiating with the Soviet Union in the START negotiations for 50 percent reductions in strategic arsenals which would cover the systems with a range greater than 5,500 kms.

Article VII, Para. 3

How can we tell which GLBM's have been developed and tested solely for interception purposes?

These systems must have been developed and tested solely for intercepting objects off the surface of the earth. NTM are used to monitor this.

Article VII, Para. 3

As this paragraph exempts GLBMs developed and tested solely for interception purposes, is there anything to stop the Soviets from modifying SS-4, SS-20, SS-12 or SS-23 missiles and claiming them to be interceptors exempt from elimination?

The Treaty requires the Soviets to eliminate all existing INF missiles and prohibits further production. These include the SS-4, SS-20, SS-12 and SS-23 missiles. There is no provision in the Treaty to permit modification of these missiles. The Soviet Union, as does the U.S., has systems designed and developed solely as interceptors which are exempted by this provision.

Article VII, Para. 4

Does this method of determining the missiles to be covered by this treaty exempt any ground based missile systems located in Europe which have intermediate- or shorter-range capabilities?

No. This provision is designed to eliminate debate over whether any future system which might be developed is an INF system by establishing the criteria of maximum tested range. Thus this article does not exempt any IRM or SRM.

Article VII, Para. 5 & 6

Are the "maximum number of warheads as provided in the MOU" the actual maximum that can be carried by the respective GLBMs and GLCMs?

It is the maximum number of warheads for which the missile has been tested.

Article VII, Para. 8

Are SS-25 launchers capable of launching SS-20 missiles, and would such a capability bring SS-25 launchers under this treaty?

To our knowledge, no SS-25 launcher has contained, launched or been tested with an INF missile. Only if a launcher has contained, launched or been tested with an INF GLBM or GLCM, is it limited by the INF Treaty.

Article VII, Para. 10

This paragraph provides for the counting of missiles covered by the treaty. Will there be confusion with "similar but not interchangeable" stages exempted under Art. VI, Para. 2?

There is no confusion about the Treaty provisions. The SS-25's first stage which is "outwardly similar, but not interchangeable" with the SS-20's first stage almost certainly will never be observed as an individual missile stage exiting its final assembly plant.

Article VII, Para. 10

How can we tell if a canister contains a GLBM and whether it is a GLBM covered by the treaty?

It is not necessary to examine the interior of the canister. If a missile is stored or moved in a canister, e.g. the Soviet SS-20, the canister "counts" as a missile. If we see an SS-20 canister, it is equivalent to seeing the missile -- unless the Soviets "prove to the satisfaction of the other Party" that it does not contain an SS-20.

Article VII, Para. 11

Which particular missile systems will be exempted by this paragraph?

This paragraph permits ground-based testing of items not subject to the Treaty, such as SLBMs and SLCMs.

Article VII, para. 11

How can we determine which Soviet missiles are "intended" and which are "not intended" to be ground-based for the purpose of identifying exempted missile systems?

The Treaty article does not use the language "intended" or "not intended," but applies the criterion of observable tests. The provision permits continued testing of U.S. missiles, e.g., SLCM, in accordance with our existing programs. NTM will be used to confirm that such launchers are used only at test sites for legitimate test purposes.

Article VII, Para. 11

What functionally related features will distinguish test-launchers from ground-based missile launchers?

The test-launcher must be a land-based fixed launcher used solely for test purposes.

Article VII, Para. 11

Does the paragraph effectively permit the Soviets to deploy SLCMs at land-based launchers, and if so, how will the capabilities of these SLCMs differ in capabilities from cruise missiles prohibited under the Treaty?

This paragraph permits the testing, not deployment of SLCM from land-based launchers. As the launchers permitted under this Article are only fixed launchers at test sites, no missile on such a launcher could be mobile. Although there can be observable features for distinguishing air, sea and ground-launched cruise missiles, differences in launchers, deployment and associated training provide the primary method to determine between types of cruise missiles. We do not anticipate that either side will require more than a small number of missiles at such test sites at any one time.

Article VII, Para. 12

How do "booster stages" differ from missile stages prohibited under this treaty?

To help verify that these booster system launches are not used illegally for INF flight-testing, the following limitations are placed on certain R&D booster systems:

- stages used in such booster systems must be different from stages used in INF missiles listed in Article III of the Treaty.
- such booster systems must be used only for research and development purposes to test objects other than the booster systems themselves;
- the aggregate number of launchers for such booster systems must not exceed 35 for each side at any one time;
- the launchers of such booster systems must be fixed, emplaced above ground and located only at research and development launch sites that are listed in the MOU;
- only existing types of booster stages for such booster systems in the INF range band may be used; and
- notification of launches of such booster systems must be given ten days in advance.

Article VII, Para 12

In the past, have the Soviets ever violated SALT I or SALT II by using research and development sites for the deployment of systems prohibited under these treaties?

The President's Report on Soviet noncompliance with Arms Control Agreements of 23 December 1985 made the following finding:

"The President's February 1985 Report to Congress which noted that the evidence is somewhat ambiguous and we cannot reach a definitive conclusion, found the activities at Plesetsk to be a probable violation of the USSR's legal obligation and political commitment under SALT II. Soviet activity in the past year at Plesetsk seems to indicate the probable removal of SS-16 equipment and introduction of equipment associated with a different ICBM."

Under the INF Treaty, however, within 30 days after entry into force there can be no INF missiles or launchers at test sites. Subsequent detection of a single INF missile at a test site would be a Treaty violation.

Article VII, Para. 12

Could the Soviets conceivably deploy systems prohibited under this treaty at research and development sites?

The Elimination Protocol states that all stages of intermediate-range and shorter-range missiles are subject to elimination. Even though an SS-20 is counted as a complete missile only when it is fully assembled, all stages of the SS-20 are accounted for in the MOU and are subject to elimination. Thus the Soviets are prohibited from keeping any stage of the SS-20 for any purpose, including for R&D boosters, and must eliminate them all under the Treaty.

Article VII, Para 12

Why are we prohibited from on-site inspection of research and development sites?

The sides are prohibited from stationing Treaty-limited systems at research and development sites, consequently it is consistent with the inspection provisions in the Treaty that there be no OSI for such sites. The U.S. believes that the prohibition against INF missiles at R&D sites can be effectively monitored by NTM, especially given the provisions to enhance monitoring contained in Para. 12 of Article VII.

Article VIII

Para. 1

This paragraph provides that intermediate range missiles and launchers may be located only in deployment areas, at support facilities or in transit. Can we verify that there are no missiles in locations outside of these areas.

As the Treaty makes clear, the detection of a single missile or launcher not in a deployment area, support facility or in notified transit would be evidence of a Treaty violation.

Taken together, U.S. National Technical Means and the verification measures provided for in the INF Treaty, including the extensive data exchanges and on-site inspections will work together to deter possible Soviet cheating by making it costly, and increasing the likelihood that such cheating would be detected. While no agreement can be 100 % verifiable, the combination of National Technical Means, the Treaty verification measures and testing and production bans will work to prevent the Soviets from acquiring a militarily viable and effective covert force.

Article VIII

Para. 1

Have 84 SS-20 launchers been detected outside declared areas since the signing of the Treaty?

Prior to entry into force of the Treaty, neither side is obliged to abide by the locational restrictions provided for in the Treaty. U.S. information about the location of Soviet systems can be provided at a classified level.

Article VIII

Para. 1

If so, can we verify that these particular launchers will be in declared areas on the day of entry into force as required by the Treaty?

If there are launchers outside of declared areas on the day of entry into force, will we know where they are?

The Soviets must provide us within 30 days after the Treaty enters into force with the location of all missiles and launchers as of the day the Treaty enters into force. The U.S. will be able to verify this baseline data with on-site inspections. Taken together, U.S. National Technical Means and the verification measures provided for in the INF Treaty will facilitate the detection of any Soviet systems at other locations in a timely fashion so as to protect U.S. and Allied security.

Article VIII

Para. 3

Under this paragraph, shorter range missiles may be located at elimination facilities, but under para. 1 & 2, intermediate range missiles may not. Why the distinction?

Elimination facilities are included under the definition of missile support facilities, thus intermediate-range missiles may be located at elimination facilities. Para. 3 on shorter-range missiles begins with a reference to elimination facilities because shorter-range missiles may only transit to elimination facilities, thus the locational restrictions apply only until shorter-range missiles are moved to elimination facilities at which time they are restricted to those elimination facilities until they are eliminated.

Article VIII

Para. 5

Can we verify that all deployment areas, bases and facilities have been declared?

Have we detected SS-20 facilities above and beyond those declared in the MOU?

Deployment areas, bases and facilities are defined in the MOU as places where Treaty-limited missiles and launchers are located or where activities related to INF systems are going on. The Treaty states that the Parties have declared all locations which met these descriptions as of November 1, 1987 in the Memorandum of Understanding. The Soviet numbers and locations for deployed and non-deployed forces are for the most part near the estimates of our intelligence community, allowing for the range of our uncertainties. A more detailed answer can be provided at the classified level. We are continuing to monitor Soviet activities carefully, and thirty days after entry into force of the Treaty this data must be updated and we will have the opportunity to verify that data in the baseline inspections. After entry into force, any missiles or launchers not located in declared areas or facilities or in notified transit will constitute a violation. NTM capabilities together with other verification measures will enable us to verify this effectively.

Article VIII

Para. 5

If so, would the Soviets be in violation of the requirement of this paragraph that neither party shall increase the number of facilities from those set forth in the MOU.

When the Treaty enters into force, neither Party has the right to increase the number of facilities, except for elimination facilities, from those listed in the MOU as of November 1, 1987. Thus if the Soviets located missiles or launchers at facilities not listed in the MOU, other than new elimination facilities, they would be in violation of the Treaty. Any missiles and launchers not in deployment areas or facilities listed in the MOU, or in transit would represent violations of the Treaty.

Article VIII

Para. 5

Will the subsequent updates required under this paragraph be subject to Senate advice and consent in the same manner as the original data in the MOU?

The MOU, as an integral part of the INF Treaty, is subject to Senate advice and consent. In giving its advice and consent to ratification of the Treaty, the Senate would not be subscribing to the accuracy of Soviet data. Subsequent updates of data, as required by Article IX of the Treaty, in the categories contained in the MOU do not alter the obligations in the Treaty and thus do not represent amendments to the MOU that would require Senate action.

Article VIII

Para. 5

This paragraph contains an exception making elimination facilities subject to change. What are the reasons for this exception?

The United States sought to preserve its flexibility to change or create new elimination facilities during the period of reductions should experience show that such changes were needed. At the time the Treaty was signed, the United States had not made the final decision as to where our elimination facilities would be located, thus we did not list any elimination facilities in the MOU. The U.S. must exercise the exception, which we sought in this paragraph, to change or create new elimination facilities, when we make that decision.

Article VIII

Para. 6

Do the Soviets have production facilities or test ranges which have not been listed in the MOU?

U.S. information about the location of Soviet production facilities or test ranges involves classified intelligence.

Article VIII

Para. 6

If so, may missiles covered by this Treaty be located at these facilities and test ranges?

Thirty days after the Treaty enters into force missiles and launchers must be located in deployment areas or facilities listed in updates of data in the MOU or in transit. Missiles and launchers located elsewhere would be a violation of the Treaty. In addition, no missiles and launchers may be located at test ranges or production facilities 30 days after entry into force of the Treaty.

Article VIII

Para. 7

This paragraph prohibits covered missiles from being located at training facilities. Have all training facilities been declared and agreed.

The data provided by the Soviet Union on training facilities in the Memorandum of Understanding are generally consistent with our own intelligence community information.

Article VIII

Para. 9

Are training facilities banned?

Training facilities for INF missiles must be eliminated. After their elimination, no new ones may be established. Thus training facilities for INF missile systems are banned at the end of the reductions period.

Article VIII

Para. 9

May training missiles and launchers be placed at deployment areas or support facilities?

Training missiles and training launchers for systems covered by this Treaty are subject to the same locational restrictions set forth in the Treaty for intermediate-range and shorter-range missiles and their launchers. That is, they must be in deployment areas, missile support facilities or in notified transit between such locations.

Article VIII

Para. 9

Are any Soviet missiles covered by this Treaty located at either declared or undeclared training facilities?

In the MOT, the Soviets have listed 14 SS-20 launchers at three training facilities: Serpukhov, Krasnodar, and the Training Center at the Kapustin Yar test range and five SS-12 launchers and seven SS-23 launchers at training facilities at Saratov, Kazan' and Kamenka. The data provided by the Soviet Union on training facilities in the Memorandum of Understanding are generally consistent with our intelligence community information.

Article IX

Paras. 1 & 2

Can we verify that all intermediate- and shorter- range missiles produced by the Soviets are listed in the MOU?

We have made it clear that there are some differences within the US Intelligence Community over estimated numbers of Soviet systems. It is not surprising that there are differences of opinion; they reflect independent analyses which add to the strength of our monitoring process. The Soviet numbers for deployed and non-deployed forces are for the most part near the estimates of our Intelligence Community, allowing for the range of our uncertainties.

There are some differences in agency views on the number of non-deployed SS-20s. Estimates for non-deployed systems are, of course, inherently less certain. They vary by agency, reflecting the independent analyses mentioned above. There are three agency views. Two are close to the Soviet-declared number. One is not.

The Treaty is designed to deal with possibilities such as the Soviets having more non-deployed SS-20s than we assess. Our National Technical Means can verify Soviet compliance with the Treaty's ban on INF flight testing, as already noted, as well as with the Treaty's ban on INF infrastructure. Both testing and infrastructure are essential to a militarily effective force. Thus even if the Soviets did have some concealed SS-20s, their military effectiveness would steadily atrophy.

Article IX

Paras. 1 & 2

The MOU is an integral part of the Treaty, and thus subject to advice and consent of the Senate. Will updates to the data in the MOU be similarly subject to Senate advice and consent?

The MOU, as an integral part of the INF Treaty, is subject to Senate advice and consent. In giving its advice and consent to ratification of the Treaty, the Senate would not be subscribing to the accuracy of Soviet data. Subsequent updates of data, as required by Article IX of the Treaty, in the categories contained in the MOU do not alter obligations in the Treaty and thus do not represent amendments to the MOU which would require Senate action.

Article IX

Paras. 1 & 2

Has the US asked the Soviet Union to declare an update of all data pertaining to facilities associated with missiles covered by this Treaty?

Under the provisions of the Treaty, the Soviets will be required to provide us, within thirty days after entry into force of the Treaty, with an update of all the data in the MOU as of the date of entry into force. With the exception of a provision for adding elimination facilities, the list of facilities in the MOU may not be increased. Subsequently, they are required periodically to update the data on the number of Treaty-accountable items located at the remaining INF facilities.

Article IX

Paras. 1 & 2

Do we expect to be told in this update, of SS-20 facilities or launchers which were not included in the MOU?

Will we be certain at the time this data is exchanged that it includes all SS-20 facilities and launchers possessed by the Soviets?

These paragraphs make each party responsible for providing the numbers of their missile systems to be eliminated. How can we verify that the numbers of missiles systems provided by the Soviets are accurate?

In signing the Memorandum of Understanding, each party acknowledged responsibility for the accuracy of only its own data. The data on the number of deployed and non-deployed missiles provided by the Soviets in the MOU is for the most part near the estimates of our intelligence community, allowing for the range of our uncertainties. The listing of this data was only the first step in the stringent verification process established by the Treaty. Under this process, the sides must exchange, no later than 30 days after the Treaty enters into force, an initial update of all data in the MOU, current as of the date on entry into force. Each party then has the right to conduct an initial series of "baseline" inspections at each facility listed in the MOU (other than missile production facilities) to verify the accuracy of the data. Elimination of Treaty-subject systems is then monitored through on-site inspection as well as National Technical Means. Further data updates are to be provided every six months thereafter.

Article IX

Paras. 1 & 2

If the Soviet numbers are indeed inaccurate, does this mean that we have not effectively eliminated "a whole class of nuclear weapons?"

Soviet data is generally within the range of our intelligence community estimates. It will be updated 30 days after the Treaty enters into force and we will have a chance to check the data during baseline inspections. Each Party is required to eliminate all Treaty-limited items for ground-launched missiles in the ranges covered by this Treaty during the reductions period. Thus an entire class of United States and Soviet missiles will be eliminated.

Article IX

Paras. 1 & 2

Did SALT I and SALT II allow each party to be responsible for their own data?

Only SALT II contained specific data in a Memorandum of Understanding. This data, which was much more limited than the data exchanged under the INF Treaty, was agreed between the Parties. In the INF negotiations, the U.S. proposed the formula under which each side would be responsible only for its own data in the MOU. Baseline inspections will help give us the opportunity to verify the data contained in the initial data update including the elimination of any facilities listed in the MOU but not included in the first data update.

Article IX

Para. 5

Why is the information on the "location from which missiles and launchers are moved" provided for intermediate range missiles under this paragraph, but not provided for shorter range missiles?

Information on the "location from which missiles and launchers are moved" is provided for intermediate-range missiles in order to assist verification of the requirement in Article X that intermediate-range missiles and launchers be removed from deployment areas to elimination facilities in complete organizational units. In addition, the point of departure is included in the required content of notification of all transits (Article IX, para. 5(f)(ii)), including those of shorter-range missiles and their launchers to elimination facilities.

Article IX

Para. 5

Why is there an exception providing that notification on point of entry and departure time of teams inspecting support structures is unnecessary?

There is no on-site inspection of the actual process of elimination of support structures which is to be done in situ. Thus no information on the point of entry and departure times of inspection teams is provided in the notification of the intention to eliminate support structures. Other information in the notification will assist in the verification by National Technical Means of the elimination of support structures. In addition, during close out inspections of all missile operating bases provided for in Article XI, paragraphs 3 and 4, we will be able to confirm that support structures at these bases have been eliminated.

Article IX

Para. 5

Why must notification be provided after transit, as opposed to before or during transit?

The United States did not seek prior notification of transits for reasons of security, i.e. in order to avoid the possibility of such information being acquired by unauthorized persons. In addition, locations during transits are susceptible to change and thus a prior notification would not necessarily give as accurate information in distinguishing a bonafide transit from an illegal Treaty-limited item.

Article IX

Para. 5

Will we use National Technical Means to track transits prior to notification?

As is currently the case, the U.S. will be using National Technical Means to monitor Soviet INF missile movement. The post notification of transits will assist the U.S. in monitoring, using information from a number of sources including National Technical Means, whether a given missile outside a deployment area or missile support facility is an illegal missile or a missile in permitted transit.

Article IX

Para. 5

If notifications of transits were provided in advance of transits, instead of after, would this free up NTM for other purpose such as seeking out Treaty violations?

No, it would not free up NTM assets. The United States never proposed prior notification of transits because serious security considerations more than outweighed any advantage such notifications would have. Any missile not located in a deployment area, missile support facility or in notified transit would be a violation of the Treaty. Seeking out such missiles would require the same NTM effort, regardless of the notifications provided.

Article IX

Para. 6

How do we know that the launchers permitted under this paragraph will be of boosters for space launch, and not for stages of missiles prohibited under this Treaty?

To help verify that booster systems launches are not used illegally for INF flight testing, the following limitations are placed on certain R & D booster systems.

-- stages used in such booster systems must be different from stages used in INF missiles listed in Article III of the Treaty;

-- such booster systems must be used only for research and development purposes to test objects other than the booster systems themselves;

-- the aggregate number of launchers for such systems shall not exceed 35 for each Party at any one time;

-- the launchers of such booster systems must be fixed, emplaced above ground and located only at research and development launch sites that are listed in the Memorandum of Understanding;

-- only existing types of booster stages for such booster systems in the INF range band may be used; and

-- notification of launches of such booster systems must be give ten days in advance.

These collateral constraints give us confidence that such R&D booster systems do not present an attractive means of developing an effective military system.

Article X

Para. 3

Why are shorter range missiles not similarly required to be removed in complete organizational units?

The U.S. proposed and the Soviets agreed to an approach under which all deployed shorter-range missiles and all deployed and non-deployed launchers for such missiles would be withdrawn to elimination sites within 90 days after entry into force of the Treaty. Given this short time frame, this requirement obviates the need to remove them in complete operational units.

Article VIII

Para. 1

This paragraph provides that intermediate range missiles and launchers may be located only in deployment areas, at support facilities or in transit. Can we verify that there are no missiles in locations outside of these areas.

As the Treaty makes clear, the detection of a single missile or launcher not in a deployment area, support facility or in notified transit would be evidence of a Treaty violation.

Taken together, U.S. National Technical Means and the verification measures provided for in the INF Treaty, including the extensive data exchanges and on-site inspections will work together to deter possible Soviet cheating by making it costly, and increasing the likelihood that such cheating would be detected. While no agreement can be 100 % verifiable, the combination of National Technical Means, the Treaty verification measures and testing and production bans will work to prevent the Soviets from acquiring a militarily viable and effective covert force.

Article X

Para. 5

Why is elimination by launching limited to 100 missiles?

For logistical reasons, the U.S. agreed to allow launches of only 100 intermediate-range ballistic missiles during a brief time span (the first six months of the reduction period). The Soviets maintained that a certain number of their much larger force of intermediate-range missiles needed to be eliminated by launch in order to be able to eliminate that force within the three year time period proposed by the United States.

Article X

Para. 5

Why is elimination by launching limited to intermediate-range missiles?

The United States agreed to this method for eliminating intermediate range missiles under restrictive conditions to ensure that the Soviets would complete their intermediate range missile reductions within the three year time frame favored by the U.S. We secured Soviet agreement on an 18 month elimination period for shorter range missiles without any elimination by means of launching.

Article X

Para. 5

Are the Soviets prohibited from using these launches for normal troop training launch tests, or ABM testing and research?

The Treaty requires elimination by means of launch to take place at designated elimination facilities with mandatory on-site inspection. The Treaty prohibits missiles eliminated by means of launching from being used as targets for ballistic missile interceptors and data from launches for elimination cannot be recovered except as unencrypted signals used for range safety purposes. In addition, all 100 of these launches must be completed within six months after the Treaty enters into force. These and other restrictions limit the practical use of launches for elimination for other purposes.

Article X

Para. 5

Can we verify that these launches will not be used for troop training, launch testing, or ABM testing research?

All launches for elimination are subject to advance notification and on-site inspection and will be monitored by NTM. The Elimination Protocol provides restrictions on such launches including that no missile be used as a target vehicle for ballistic missile interceptors and that neither party shall transmit or recover data from such launchers except for unencrypted data regarding range safety procedures. We are therefore confident that we can verify that launches are not being used for ABM testing. Moreover, given the limited time frame in which these launches must take place (the first six months after entry into force) and the limited number permitted (100 intermediate range missiles), their troop training and flight test value will be limited.

Article X

Para. 6

Are there any other Soviet intermediate- or shorter range missiles which fall under the classification of this paragraph?

No. The data provided by the Soviet Union on intermediate-range and shorter-range missiles which have been tested but not deployed fall within the bounds of U.S. intelligence community estimates.

Article X

Para. 8

Does the "or when 60 days" have elapsed imply some close outs without on-site inspection?

If the other Party chooses not to carry out an inspection of a declared facility within 60 days after notification of the scheduled date of such a site's elimination, then that site may be considered eliminated without an on-site inspection.

However, the choice is entirely up to the inspecting Party. Thus, the United States will have the option to inspect any site for which it has received a formal notification of elimination.

Article X

Para. 8

What is the utility of limiting the time available for on-site close out inspections?

The 60 day limit on the time available for on-site close out inspections was agreed in order to prevent one Party from inordinately delaying the elimination of a facility of the other Party by refusing to carry out a close out inspection.

Article X

Para. 8

Which are the deployment areas, operating bases and support facilities listed in the MOU that shall be considered to have been already eliminated by virtue of meeting the conditions of this paragraph prior to entry into force?

Any deployment area, operating base or support facility which a party does not include in the initial data update exchanged within thirty days after the Treaty enters into force will be considered to have been eliminated by virtue of meeting the conditions of this paragraph prior to entry into force. All such sites will be subject to a baseline inspection which will also serve as a close out inspection to confirm that these sites have in fact been eliminated. During the thirteen years after the Treaty enters into force, they will be subject to short notice inspections under the quotas for such inspections.

Article X

Para. 8

What inspection rights do we have to assure that the conditions of this paragraph have been met by any facilities exempted by this provision?

No sites are exempted from inspections by this provision. All declared INF facilities, except missile production facilities, listed in the MOU will be subject to baseline inspections. In the case of a facility eliminated prior to entry into force, the baseline inspection will also serve as a close out inspection. During the thirteen years after the Treaty enters into force, they will also be subject to short notice inspections under the quotas for such inspections.

Article X

Para. 2

Does this paragraph allow the Soviets to claim that bases or facilities have been eliminated prior to entry into force and thus exempt them from on-site inspection?

No. All facilities listed in the MOU, except missile production facilities, are subject to baseline inspections and short notice inspections for thirteen years after the Treaty enters into force.

Article X

Part. 9

This paragraph exempts from the Treaty bases which are converted to bases for missiles not covered by the Treaty. What conversions are envisioned under this paragraph?

This paragraph does not exempt from the inspection provisions of the Treaty bases that are converted to bases for missiles not covered by this Treaty. Such bases will be subject to the same baseline, close out and short notice inspections as bases which are not converted. This paragraph adds an additional requirement that the conversion of bases must also be notified and that the notification must include the purpose for which the base will be converted. One conversion envisioned under this paragraph would be the conversion of an SS-20 base to an SS-25 base. Such an SS-25 base would nevertheless continue to be subject to on-site inspection under Article XI, para. 5 as a declared or formerly declared SS-20 base.

Article X

Para. 9

What will be the range of the missiles at these converted bases? Bases may be converted for use by missiles not covered by this Treaty, that is, missiles with ranges below 500 km and missiles with ranges above 5500 km.

Article X

Para. 9

Does the Treaty prohibit missiles at these converted bases from carrying nuclear warheads taken off eliminated missiles?

No. The Treaty does not limit the use to which warheads removed from front sections to be eliminated can be put.

Article XI

Para. 2

Is the Basing Country Agreement necessary for implementation of this Treaty? If so, will it be transmitted to the Senate for advice and consent?

In order to negotiate with the Soviets inspections of U.S. INF facilities in the basing countries, we need the legal approval and active cooperation of these Allies for the implementation these provisions of the Treaty. Thus we engaged in frequent and extensive consultations with the basing countries on these aspects of the Treaty and Inspection Protocol. The Basing Country Agreement is not an integral part of the Treaty in a legal sense, but is fully consistent with it. It is also an essential complement to the Treaty's inspection regime, however, because it is the BCA that commits the Western basing countries to permit Soviet inspectors to perform inspections called for by the Treaty in their territories. The BCA is being handled as an executive agreement because United States obligations under it are essentially procedural in nature; it will not enter into force unless and until the Treaty does. However, in order to ensure that the Senate is fully familiar with the provisions and role of the BCA, we have transmitted it along with the Treaty for the information of the Senate.

ARTICLE XI

Para. 3

Why are production facilities exempt from "baseline" inspections?

Missile production facilities are exempt from interior, on-site inspection. Launcher production facilities are subject to baseline, short-notice, and closeout inspections. Missile production facilities are exempted because of national security requirements; in our case to protect non-INF sensitive activities at production sites from Soviet inspectors.

Article XI

Para. 3

Why may "baseline" inspections be conducted only at known bases and facilities as opposed to "suspect" bases and facilities?

We considered an "anytime, anywhere" inspection regime. In the context of the Soviet acceptance of our "double global zero" proposal, we concluded that "anytime, anywhere" inspections were not essential given the extensive and unprecedented nature of our verification procedures as a whole. Because a verification regime is reciprocal, we also had to weigh verification benefits against U.S. and Allied security concerns. We did not believe it necessary for the purpose of the INF Treaty to subject sensitive U.S. facilities to the possibility of Soviet inspection. It was thus the conclusion of the administration that, in the context of the INF Treaty, "anytime, anywhere," inspections added little to the already extensive and unprecedented INF verification regime when balanced against the possible risks to other U.S. and Allied security interests which they raised.

Article XI, Para 3

How can we be sure that "baseline" inspections will reveal all systems possessed by the Soviets if "suspect" locations may not be inspected?

The role of "baseline" inspections, to be conducted shortly after the INF Treaty enters into force, is to verify the number of Treaty-limited systems as listed in the data update, specifically missiles and launchers, at "declared" facilities, including bases at which missiles are operating, repaired and stored. It was the conclusion of the Administration that, in the context of the INF Treaty, "anytime, anywhere" suspect site inspections added little to the already extensive and unprecedented INF verification regime when balanced against the possible risks to other U.S. and Allied security interests.

Article XI

Para. 4

Why are additional inspections of facilities previously inspected under paragraph 3 after their scheduled date of elimination prohibited?

Paragraph 3 of Article XI concerns baseline inspections. Paragraph 4 of Article XI concerns closeout inspections. Baseline and closeout inspections can be combined. If a facility is eliminated prior to entry into force of the Treaty, then we have the right to inspect that site once under a combination baseline/closeout inspection to determine that all Treaty-limited activities have ceased and all Treaty-limited items have been removed. This facility will still be subject to short-notice inspection for thirteen years after the Treaty enters into force.

Article XI

Para. 4

What if a facility previously inspected under paragraph 3 is not eliminated by the scheduled date?

Paragraph 3 of Article XI concerns baseline inspections. All facilities listed in the MOU except missile production facilities will be subject to baseline inspection. If the Soviets notify us that a facility is scheduled for elimination by a certain date, they know that our inspectors have the right to inspect that facility within sixty days after the date of scheduled elimination; if they are unable to meet this schedule, they are obliged to notify us that the facility will not be eliminated by that date. We will not consider the facility eliminated until it meets all of the conditions in Article X, para 8, i.e., all Treaty-limited items must be removed and all Treaty-limited activity must stop.

Article XI

Para. 5

Why is there a limitation that no more than half of "spot" inspections be made within any one basing country?

The U.S. proposed this provision to keep the Soviets from using their quota of short-notice inspections to focus attention excessively on a single NATO basing country.

Article XI

Para. 6

Are "continuous" inspections limited to portals and not to perimeters?

Can perimeters be continuously monitored?

Under the portal monitoring system all of the exits of the facility will be continuously monitored by sensors and U.S. inspectors will have the right to continuously patrol the perimeter of the site at any time.

Article XI

Para. 6

If the Soviets terminate production at a facility for 12 months, will our inspectors be sent home?

The U.S. has an unqualified right to maintain a continuous portal monitoring system at Votkinsk for at least three years after the Treaty enters into force. After the first two years, we can maintain our continuous portal monitoring system at Votkinsk until the Soviets cease final assembly of SS-25s. We can remain there for an additional year after assembly has ceased. Thus, the U.S. will be at Votkinsk for at least three years (but no more than 13 years) after the Treaty enters into force. If the U.S. portal monitoring is discontinued in the USSR, then the Soviets will have to discontinue portal monitoring in the U.S.

In addition, the U.S. has the right for 12 years to establish a continuous portal monitoring system at any facility where final assembly of a multi-stage missile that uses a stage outwardly similar to a stage of a missile banned by the Treaty takes place.

Article XI

Para. 6

If termination of production comes about, how would we know if production re-initiated?

We would use National Technical Means to help identify any reinitiation of the final assembly of missiles using a stage that is outwardly similar to but not interchangeable with a stage of the SS-20. If such final assembly is reinitiated, we would have the right to establish portal monitoring at the facility where final assembly takes place. It is important to note that the Soviets are obligated by the terms of this provision to ensure that we can establish a permanent continuous monitoring system at any such final assembly facility within six months of initiation of the process of final assembly; otherwise, the Soviets would be in violation of the Treaty. As well as NTM, naturally, we will use all available intelligence collection methods to monitor for illegal production.

ARTICLE XII

Para. 1

Do the Soviets recognize general principles of international law?

How does our understanding of these principles differ from that of the Soviets?

Which interpretation of the principles of international law will govern the Treaty? ours or the Soviets?

Article XII (1) deals specifically with the question of the use of NTM in accordance with generally recognized principles of international law for verification of the Treaty. In this area, U.S. and Soviet views of generally recognized principles of international law are not substantially different. In particular, the Soviets have not contested the legality of using satellites for arms control verification. Under Article XII such satellites may not be interfered with. The same would be true with respect to NTM activities for Treaty verification in third countries.

Article XII

Para. 2

Why is interference with National Technical Means permitted for normal training, maintenance and operations?

Does this exemption legitimize Soviet camouflage, concealment and deception?

The Treaty does not legitimize concealment. Quite the contrary, Article XII, Paragraph 2(b), bans

"...concealment measures which impede verification of compliance with the provisions of this Treaty by national technical means of verification..."

The United States sought this provision in the Treaty as part of a vigorous verification regime, and successfully resisted Soviet attempts to limit the ban on concealment to any "deliberate" concealment.

The Treaty, however, does permit both sides to continue current practices in deployment areas associated with normal training, maintenance, and operations. This requirement reflects a balance of verification benefits with operational requirements. One objective of the U.S. was to ensure that we maintained the security and operational effectiveness of the residual deployed INF force throughout the drawdown period. Therefore, both sides agreed to permit, within the deployment area, existing practices associated with normal training, maintenance and operations.

Article XII

Para. 2

Does this exemption represent a retreat from the SALT I and II prohibition against "deliberate" interference with National Technical Means of verification?

No. The language of Article XII, para. 2 was designed to meet U.S. operational needs for environmental shelters and camouflage in deployment areas. The Soviets readily accepted this language. The locational restrictions in the Treaty will apply, but the sides will be able under this language to train their crews and conduct maintenance and normal operations, including storing Treaty-limited items in environmental shelters.

Until missiles are eliminated, it is important for the U.S. to maintain the operational capability of much of its missile force. This provision also gives the Soviets an additional incentive to make asymmetric reductions from the outset and provides an insurance policy against early Soviet noncompliance with their reduction obligations under the Treaty. Moreover, the deletion of "deliberate" (at U.S. insistence), is a step forward because we eliminate the need to make a subjective judgment about the purpose of concealment, while preserving our rights under this paragraph for operational activities.

Article XII

Para. 2

Will this exemption allow the Soviets to hide missiles in violation of the Treaty?

The missile operating bases within the deployment area will be subject to on-site inspection. At the end of the three year reduction period, all Treaty-limited items must be eliminated and all Treaty-limited activity must cease. Because of the other major restrictions in the Treaty including the flight test ban and the production ban, it will be very difficult for the Soviets to maintain a viable operational covert missile force. Since the Treaty requires both sides to eliminate completely Treaty-limited missiles and launchers, with a combination of NIM and on-site inspection, we will be able to create doubt in the Soviets' minds that they can conceal Treaty-limited items and quickly make them operational.

Article XII

Para. 3

What is to be displayed for satellite inspection, the missiles or the canisters?

The canisters on their launchers will be displayed. At operational bases, Soviet SS-20s and SS-25s are stored in canisters which are carried on their launchers.

Article XII

Para. 3

Could SS-20s conceivably be hidden in SS-25 canisters?

An SS-20 missile is smaller than an SS-25 canister so an SS-20 missile will fit into an SS-25 canister. However, the Soviets would not have a strong incentive to do this. One reason is technical. An SS-20 probably could not be launched from an SS-25 canister without extensive modifications to the canister. A second reason is the risk of detection. The opportunity to inspect (using non-destructive imaging) every canister that leaves the SS-25 final assembly facility with the the right to open eight SS-25 canisters per year there, combined with enhanced NTM monitoring and on-site inspection rights for thirteen years at SS-20 bases including those that are converted to SS-25 bases, is likely to deter the Soviets from covertly hiding an SS-20 in an SS-25 canister.

Article XII

Para. 3

Could we detect whether SS-20s are hidden in these canisters?

We have the right to on-site inspection of SS-20 bases that are converted to SS-25 bases where we will be able to inspect any object as large as the smallest stage of any missile covered by this Treaty. Our inspectors will use measuring devices and radiation detection devices. With radiation detection devices we can distinguish the SS-20 from the SS-25. Also, we have the right to conduct continuous portal monitoring for up to thirteen years of the SS-25 final assembly facility at Votkinsk or any other facility where missiles are assembled using a stage which is outwardly similar to but not interchangeable with the first stage of the SS-20. We will have the right to weigh and measure all vehicles leaving the facility. If the vehicle is large enough and heavy enough to contain a Soviet Treaty-limited GLBM we will have the right to inspect the interior of that vehicle. In addition, eight times a year we will have the right to demand that the Soviets open an SS-25 canister so we can see the interior of the canister to determine that it does not contain an SS-20.

No one of these methods is foolproof. Taken together, however, they create a significant deterrent to cheating.

Article XIII

Para. 1

How will the "Special Verification Commission" be constituted, structured and staffed?

How will the Commission handle disputes?

What procedures will the Commission have to assure resolution of disputes?

The Special Verification Commission is a body established pursuant to Article XIII of the INF Treaty to promote the objectives and implementation of the Treaty.

-- It is to meet at the request of either Party to resolve questions relating to compliance with the Treaty, and to negotiate measures to improve the viability and effectiveness of the Treaty. Neither side has the right to refuse a request for a meeting.

-- The SVC could play a role in clarifying technical aspects of specific compliance issues, or alternatively, in developing procedures and understanding to clarify and reduce the possibility for future ambiguous situations.

-- We have designed the role and responsibilities of the SVC to be flexible and therefore capable of responding to a range of possible compliance issues, the extent of which has not yet been determined since the Treaty is not in force. We have, therefore, reserved decisions on the staffing and structure of the SVC.

Article XIII

Para. 1

What kind of enforcement powers does the commission have?
The Special Verification Commission does not have any enforcement powers. The Commission is one mechanism, along with for example diplomatic channels, where the two sides can meet to attempt to resolve questions relating to compliance with the Treaty and to attempt to agree upon such measures as may be necessary to improve the viability and effectiveness of the Treaty. If we are not satisfied with Soviet response, we can pursue a variety of means to seek to resolve compliance questions, reserving the ultimate right to withdraw from the Treaty.

Article XIII

Para. 1

Will the Commission have any power to levy any penalties against a party which violates the Treaty, and if so, what kind of penalties?

The Special Verification Commission will not have the power to levy any penalties against a party which violates the Treaty. It is one forum in which we can address issues related to Treaty violations and attempt to resolve them through negotiation. The Commission will meet at the request of either side, but neither side has the right to refuse such a request.

Article VIII

Para. 1

How effective has the "Standing Consultative Commission" which monitors SALT I and II been in resolving compliance questions regarding those agreements?

It was never intended that the SCC "resolve compliance questions," but only that it serve as a vehicle of communication for the two governments to resolve compliance questions. Overall, we have been disappointed that the two governments have not been able to resolve the many questions we have raised about Soviet compliance with past arms control agreements. The Krasnoyarsk radar dispute is a case in point.

This experience we have had with the SCC led the U.S. to propose some of the changes which were adopted in the INF Treaty for its Special Verification Commission. We see the SVC as one of a number of mechanisms that we will use in implementing the INF Treaty. The convening of the SVC will be on an ad hoc basis and we will utilize other tools including diplomatic channels both with regard to compliance and improving the effectiveness of the Treaty.

Article XIII

Para. 1

How does the "Special Verification Commission" differ from the "Standing Consultative Commission"?

The INF Treaty provides for the establishment of the Special Verification Commission (SVC). The SVC differs from the Special Consultative Commission (SCC) in that it will not have regular meetings but can meet any time at the request of either party, and the level of representation can be adjusted as appropriate. Neither side can refuse a request for such a meeting. Many of the tasks given to the SCC in Article XIII of the ABM Treaty, such as development of procedures for the elimination of Treaty-limited systems, have already been negotiated and are contained in the INF Treaty.

Article XIII

Para. 1(b)

This subparagraph permits the parties to meet "within the framework" of the Commission to "agree upon such measures as may be necessary to improve the viability and effectiveness of this Treaty."

Since the subparagraph, however, does not provide for Senate ratification of any "measures" which change the substantive content of the Treaty, does this mechanism subvert the constitutional treaty process?

Treaty amendments are subject to ratification, which for the U.S., requires the advice and consent of the Senate. However, the purpose of this language and the counterpart language in the Elimination Protocol and the Inspection Protocol is not to deal with amendments to the Treaty, but rather to make it possible for the parties to agree on technical solutions to questions that may arise in implementing the Treaty and especially the detailed technical provisions for elimination of INF systems and the conduct of inspections.

Under the Case Act, the Congress will be informed of any such technical changes. Any changes which substantively affect U.S. obligations under the Treaty will be submitted to the Senate for its advice and consent.

This procedure is entirely consistent with the Senate's constitutional role, and in fact similar arrangements have been included in a number of Treaties adopted in recent years. Maritime and environmental treaties, for example, often provide for the amendment of technical protocols or annexes without triggering Senate reconsideration of its advice and consent.

Article XIV

Does this Article unnecessarily restrict the President's power to conduct foreign policy?

Article XIV simply reflects the duty of each Party under customary international law to comply with the Treaty. It does not impose any additional obligation on the Parties, nor does it broaden the interpretation of other obligations in the Treaty. Consequently, this Article will not unnecessarily restrict the President's power to conduct foreign policy.

Article XIV

Are the prohibitions called for in this provision constitutionally binding under U.S. domestic law?

A Treaty which is duly signed and ratified with the advice and consent of the Senate has the force of law in the United States pursuant to Article VI of the Constitution.

Article XIV

Does this Article prohibit the President from assisting NATO Allies to develop their own missile systems?

The Treaty prohibits us from producing or transferring a missile, missile stage or launcher for a Treaty-limited GLCM or GLBM. It does not prohibit the production or transfer of lesser components, technology or blueprints and the United States rejected Soviet proposals for such prohibitions. In any event, each such issue would have to be dealt with on a case-by-case basis, taking into account the obligation to comply in good faith with the Treaty.

Article XIV

If so, does this Article provide the Soviet Union the right to indirectly restrict Britain and France despite Soviet pronouncements that the INF Treaty would exclude British and French missiles?

This Article and indeed the entire Treaty do not apply to the United Kingdom or France. The only restrictions are on the United States and the Soviet Union and they are as described above. The Treaty places no restriction on the established United States pattern of cooperation with our Allies.

Article XV, Para 2

This paragraph provides that a party to the Treaty may withdraw if its "supreme interests" have been "jeopardized." Is this to be a determination made solely by the withdrawing party?

This is a determination made solely by the withdrawing party. Article XV, however, requires the Party to include a statement of the extraordinary events which have jeopardized its supreme interests.

Article XV, para 2

Could the Soviet Union conceivably withdraw as soon as all U.S. Pershing IIs have been destroyed?

There is no time limit on when a Party is permitted to withdraw from the Treaty under this paragraph. The U.S., however, likely will not destroy its last Pershing II until near the end of the three year period of elimination at the same time destruction of all Soviet SS-20's and other Treaty-limited systems will be completed. This process will be in accord with paragraph 2 of Article IV which states "that both parties shall begin and continue throughout the duration of each phase" the reduction of all Treaty-limited items.

Article XV, para. 2

This paragraph also provides that six months notice must be given prior to withdrawal from the Treaty. If the Soviets cheat in such a way as to jeopardize the supreme interests of the U.S., would the U.S. have to wait six months before withdrawing from the treaty?

Article XV(2) is not directed at violations of the Treaty, but, as its text indicates, at extraordinary events related to the subject matter of the Treaty that, in the opinion of a Party, jeopardize that Party's supreme interests. As a completely separate matter, under generally recognized principles of international law a material breach by a party to a bilateral Treaty entitles the other party to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part. Thus, the United States would not have to wait six months to withdraw from the Treaty if the Soviets were to commit a material breach.

Article XVI

This Article provides that amendments shall be effective "in accordance with the constitutional procedures of each Party". Since the Supreme Court has determined that international agreements made by the President are constitutionally valid, does this mean that future major changes to the Treaty can be undertaken without Senate advice and consent?

This Article stipulates that amendments will enter into force in accordance with the same procedures set forth for entry into force of the Treaty itself. The procedures for the Treaty include the advice and consent of the Senate to its ratification. Thus ratification of amendments to the Treaty will also be subject to the advice and consent of the Senate.

Article XVI

Should the Senate, for its own purposes, clarify that no amendments to the Treaty can lawfully be made without both the advice and consent of the Senate?

There is no reason for such a stipulation since the Treaty subjects the entry into force of amendments to the same procedures as the Treaty, i.e., with the advice and consent of the Senate.

ELIMINATION PROTOCOL QUESTIONSSection I, Para 1

This paragraph lists among the missiles to be eliminated, the Pershing I-A. But is this missile operational?

If not, why would the Soviets care about having it eliminated?

Does our agreement to eliminate this missile place any pressure on West Germany to eliminate theirs?

To what extent does the including of the U.S. Pershing I-A among the missiles to be eliminated enable the Soviets to "capture" West German Pershing I-As?

The U.S. has no deployed Pershing I-As. The INF Treaty, however, eliminates a whole class of U.S. and Soviet missile systems, -- whether these systems are deployed or non-deployed. Both the Soviets and the U.S. have significant numbers of non-deployed missiles and will be required to eliminate them. The Soviets have only non-deployed SS-5s, but they will, also have to be eliminated.

Our agreement to eliminate all of our Pershing I-As has no effect whatsoever on the German-owned Pershing I-A missiles. Decisions about these German-owned missiles are solely in the hands of the Federal Republic of Germany. The U.S. will not be required to withdraw the U.S.-owned reentry vehicles for these German missiles until, upon a unilateral FRG decision, these reentry vehicles are released from the existing program of cooperation.

Section I, Paragraph 2

This paragraph lists among the Soviet missiles to be eliminated the SS-4 and the SS-5. Are the softpads and silos associated with these missiles to be eliminated under this Treaty? If not, what other military purposes could these softpads and silos be used for?

The silos once used for these missiles have not been in use for a number of years. The Soviet side at the negotiating table stated that these silos have been rendered inoperable and have been neglected or even turned over to civilian uses. For 13 years after entry into force of the Treaty, the U.S., however, will be able to inspect on-site six SS-4 silos of its choosing to increase its confidence that such silos have not been reactivated as missile launchers.

The launch pads (softpads) of the SS-4s and SS-5s, like the launch pads for the Pershing II, will not have to be eliminated. The Treaty does require the elimination of INF specific support equipment. It was clear to both sides, however, that requiring elimination of the launch pads, which are concrete slabs, was unnecessary, especially given the fact that various types of concrete slabs are widely available to both sides and could be built without Treaty restrictions. In the case of the U.S. side, such Pershing II concrete pads may be useful for other purposes.

Section I, Para. 5

This paragraph requires that all front sections of deployed missiles covered by the Treaty be eliminated. The MOU requires that parties provide pictures of the missiles to be eliminated. Since the front section is an integral part of the SS-23, and is to be eliminated in accordance with this paragraph, would the Soviet's failure to provide a picture of the SS-23 front section constitute a treaty violation?

Do we have any picture of the front sections of the SS-23? If not, could we verify that what is being eliminated is actually an SS-23 front section?

Yes, the Soviets provided a photo of the SS-23.

The Elimination Protocol requires the elimination of the SS-23 missile rocket body, front section and launcher. Our basic objective in requesting photos was to help inspectors identify the missiles to be eliminated. The SS-23 photo provided by the Soviets was sufficient to identify this missile. We will be able to verify that SS-23 front sections are being eliminated during the elimination inspections..

Section II, Para. 2

This paragraph provides for special treatment for training missile systems. What is this special treatment, and its rationale?

Both sides will have the right to conduct on-site inspections to verify that the elimination procedures for training assets have been accomplished. There is no need to remove these training assets to an elimination site for destruction. Because training missiles are not lethal and training launchers cannot launch actual missiles, there is no need to require on-site inspection of their elimination procedures. U.S. training assets are located at various facilities from which it would be unnecessarily expensive to transport such items to elimination facilities. This arrangement was agreed upon primarily at U.S. insistence.

Section II, Para. 3

This paragraph permits the parties to remove nuclear warheads and guidance systems from the missiles to be eliminated. Why was this exemption created?

What is the total amount (in number and explosive power) of warheads each party will be able to remove from the missiles covered by the treaty?

Are the Soviets prohibited from reloading these warheads onto newer missiles with INF for inter-continental capabilities?

Will the United States remove its warheads from missiles prior to elimination, and if so, what will it do with them?

The INF Treaty does not require physical destruction of the actual nuclear explosive devices. By destroying the means of delivering INF missile nuclear warhead devices, the Treaty will remove the military threat posed by them. For a number of reasons, the U.S. determined that it would not be in our interest to eliminate the nuclear warhead devices themselves. Verifying the elimination of nuclear warhead devices raises formidable technical challenges and difficult security issues. Intrusive verification measures could disclose sensitive nuclear weapons information to the Soviet Union. Finally, the nuclear warhead devices contain costly and scarce resources which it would be imprudent to destroy.

Each Party will be able to remove the nuclear warhead device from its missile "front section." As "explosive power" was not an element of the Treaty negotiations, it was not calculated. The nuclear warhead device, however, cannot simply be "reloaded" onto another missile.

The U.S. will remove its nuclear warhead devices from missile front sections prior to elimination. DOE reports there are currently no firm plans with respect to those INF nuclear explosive devices. They will be stored pending decision on their disposition. If new nuclear delivery systems, in the normal course of modernization requirements, could make use of such devices, we could save money and other scarce resources by recycling those nuclear explosive devices.

Section II, Para. 11

This paragraph provides for special treatment for training missile systems. What is this special treatment, and its rationale?

Both sides will have the right, to conduct on-site inspections to verify that the elimination procedures for training assets have been accomplished. There is no need to remove these training assets to an elimination site for destruction. Because training missiles are not lethal and training launchers cannot launch actual missiles, there is no need to require on-site inspection of their elimination procedures. U.S. training assets are located at various facilities from which it would be unnecessarily expensive to transport such items to elimination facilities. This arrangement was agreed upon primarily at U.S. insistence.

Section II, Para. 9

This paragraph provides, in part, that the parties withdraw re-entry vehicles released from existing programs of cooperation. Are re-entry vehicles considered to be part of the warhead, and thus not subject to elimination?

Does this refer solely to the deactivated Pershing I-A missile? If so, why did the Soviets request this provision?

The reentry vehicle is that portion of a ballistic missile that actually reenters the atmosphere and contains the nuclear warhead device. These reentry vehicles are subject to elimination in accordance with the procedures set forth in the Elimination Protocol, and their nuclear warhead devices will be removed prior to the elimination of the reentry vehicles.

The only such existing program of cooperation we have is that with the FRG covering the reentry vehicles owned and maintained by the U.S. for use on the German Pershing I-A missiles. These reentry vehicles will be withdrawn and eliminated only when, upon a unilateral FRG decision, they are released from that existing program of cooperation.

Section II, Paragraph 10

This paragraph provides, in part, for the elimination of launchers and vehicles. Why does it provide that the launchers and vehicles for our missiles must be cut in half, while Soviet missiles and vehicles need have approximately 1 meter cut off.

Does this enable the Soviets to maintain the integral vehicle?

What are the reasons for this unequal requirement?

The U.S. launchers subject to this Treaty have "prime movers" (ten-ton tractors) that can be detached from their launcher trailers. The Elimination Protocol permits the U.S. to preserve those detachable ten-ton tractors -- a right we insisted upon. Furthermore, the U.S. had the option to insist on the same elimination procedures for its launcher trailers as dictated for the Soviet launchers (to include cutting off the aft portion). The U.S. decided to cut those trailers in half as the most cost effective approach.

The Soviet launchers subject to this Treaty do not have detachable prime movers. In fact, these Soviet launchers are designed in such a way that, if the trailer portion were cut anywhere other than aft of the rear axle, the "prime mover" portion of the vehicle would be unusable. The agreed

elimination procedures for both sides, therefore, permit the Soviets to preserve, on a reciprocal basis, "prime movers" from their launchers. These elimination procedures, however effectively eliminate the launch capability of the Soviet launchers--the Soviets must remove all erector launcher mechanisms from these vehicles and cut them in half; they must cut off the mountings for these mechanisms; they must remove the leveling support jacks from these vehicles and cut them in half; and they must cut off the aft portion of the vehicles which accommodate the erector launcher mechanisms and support the missile when erected.

Following completion of these procedures, these Soviet vehicles will no longer be long enough to accommodate a missile and will lack the structural integrity required to support the erector launcher mechanisms and missiles.

Section II, Para. 8

This paragraph provides for special treatment for training missile systems. What is the special treatment and its rationale?

Both sides will have the right to conduct on-site inspections to verify that the elimination procedures for training assets have been accomplished. There is no need to remove these training assets to an elimination site for destruction. Because training missiles are not lethal and training launchers cannot launch actual missiles, there is no need to require on-site inspection of their elimination procedures. U.S. training assets are located at various facilities from which it would be unnecessarily expensive to transport such items to elimination facilities. This arrangement was agreed upon primarily at U.S. insistence.

Section III, Para. 1

This paragraph provides for elimination of missiles by launching. What is the rationale for permitting elimination by launching?

Can launches for the purpose of elimination be used by the Soviets for troop training or reliability testing?

What advantages would the Soviets gain by using elimination launches for troop training or reliability testing?

Can we verify that the Soviets are not using elimination launches for these purposes? Will the United States use elimination launches for these purposes?

During the negotiations, the U.S. firmly insisted that the missiles of both sides be eliminated within a three-year period. The Soviets initially claimed it would be impossible to eliminate all their missiles within a three-year period--they proposed a five-year period of elimination. During their meeting in Washington last September, Secretary Shultz and Foreign Minister Shevardnadze decided that the Geneva delegations of both sides should be temporarily supplemented with technical experts to help decide how long it would take to eliminate the missile inventories. Following the discussions of those technical experts, the Soviets agreed they could in fact eliminate all their missiles within a three-year period as long as they were permitted to eliminate some of them by means of launching.

The U.S. side agreed to permit a limited number of such launches to destruction under very strict limitations: only 100 missiles could be launched; these launches would have to take place within the first six months; no test data can be collected or broadcast from such launches; these launches will be subject to on-site inspection before and during launch.

Under these conditions, the Soviets could gain very little from such launches in terms of reliability testing. Furthermore, the Soviets have been conducting troop training and reliability testing on the SS-20 for over ten years--they would not stand to gain much from a six-month extension of such training and testing even if launches to destruction were marginally useful in those regards.

We will be able to verify that the Soviets do not collect test data from launches to destruction.

The U.S. has not determined whether it will eliminate missiles by launch.

Section III, Paragraph 2

This paragraph prohibits the use of elimination launches as targets for ballistic missile interceptors. Does this prohibition extend to the use of launches to track the missile with ABM or Air Defense Radar? If not, will we use launches for these purposes?

This provision contains no restriction on any type of radar tracking. The U.S. is carefully considering whether it will exercise its right to launches for destruction as well as whether it will track such launches with various radars.

Section III, Para. 4

This paragraph prohibits the transmission or recovery of data from such missiles except for range safety purposes.

How is "range safety" defined?

Can the Soviets put telemetry packages on missiles and declare them to be unencrypted data used for range safety practices?

Allowing range safety data during the elimination of missiles by launch was a U.S. proposal, based on our requirement to have range safety destruction packages on any missiles that would be launched to destruction. The U.S. made clear at the negotiating table that this "range safety" data would have to be unencrypted data necessary to indicate if the missile was malfunctioning in such a manner that it might have to be destroyed in flight. We will be able to determine the difference between this type of transmission and any telemetry.

Section IV, Para 1

What is the smallest support structure item, by system, limited by this treaty, and do the provisions of this Section permit the parties to search in situ for these items?

The Treaty limits and requires the elimination of two support structures--the launch garage (fixed structure for a launcher) of the SS-20 and the launch pad shelter for the Pershing II. The Treaty also provides for on-site inspection to verify that the support structure elimination procedures required in this paragraph have been completed.

Section IV, Paragraph 2

Under this paragraph, the propellant tanks of SS-4 missiles require specific dismantling procedures. Are SS-4 soft pads and silos similarly subject to elimination?

The silos once used for these missiles have not been in use for a number of years. The Soviet side at the negotiating table stated that these silos have been rendered inoperable and have been neglected or even turned over to civilian uses. For 13 years after entry into force of the Treaty, the U.S., however, will be able to inspect on-site six SS-4 silos of its choosing to increase its confidence that such silos have not been reactivated as missile launchers.

The launch pads (softpads) of the SS-4s and SS-5s, like the launch pads for the Pershing II, will not have to be eliminated. The Treaty does require the elimination of INF specific support equipment. It was clear to both sides that requiring elimination of the launch pads, which are concrete slabs, however, was unnecessary, especially given the fact that various types of concrete slabs are widely available to both sides and could be built without Treaty restrictions. In the case of the U.S. side, such Pershing II concrete pads may be useful for other purposes.

Section IV, Para 3(c)

This paragraph requires that training systems not eliminated at elimination facilities be eliminated in situ.

But are both test range test and training launchers also to be eliminated, and if so, can the parties conduct on-site inspection of these eliminations?

How would test launchers be distinguished from training launchers?

This paragraph deals with training assets, including training launchers--it does not contain any provision for test launchers. For both sides, the training launchers being referred to are vehicles used in driver-training for launchers. These driver training vehicles somewhat resemble launchers and carry weight/load simulators. These vehicles cannot launch a missile. They will be subject to the initial baseline on-site inspection. Both sides have the right to conduct on-site inspections to verify that the elimination procedures for these vehicles have been completed.

Section V, Para. 2

This paragraph provides for the elimination of missile systems by static display. How will elimination be undertaken, and how will we verify such eliminations?

How will on-site inspections of these systems reveal whether or not systems have been rendered unusable, their missile propellants removed, or their erector launcher mechanisms rendered inoperative?

Each party shall be limited to a total of 15 such missiles, canisters, and launchers on static display. Prior to being placed on static display, a missile, launch canister or launcher shall be rendered unusable for purposes inconsistent with the Treaty. Missile propellant shall be removed and erector launcher mechanisms shall be rendered inoperative. Both sides will have the right to conduct on-site inspections of each of the items being eliminated by this method.

On-site inspectors will have no difficulty in determining that these missiles are inert and that, for launchers, various erector launcher mechanisms are inoperable, if indeed they are even fully in place.

INSPECTION PROTOCOL QUESTIONSSection II, Para. 2

This paragraph refers to the Basing Country Agreements. Are these agreements an integral part of the treaty? Will they be submitted to the Senate for its advice and consent? Will our basing countries be exchanging notes with the Soviets? Will these notes be made available to the Senate?

The Basing Country Agreement is not an integral part of the Treaty in a legal sense. It is an essential complement to the treaty's inspection regime, however, because it is the BCA that commits the Western basing countries to permit Soviet inspectors to perform inspections called for by the Treaty in their territories. The BCA is being handled as an executive agreement because United States obligations under it are essentially procedural in nature; it will not enter into force unless and until the Treaty does. However, in order to ensure that the Senate is fully familiar with the provisions and role of the BCA, we transmitted it along with the Treaty for the information of the Senate.

The NATO Basing Countries are exchanging notes with the Soviet Union regarding the conduct of inspections on their territories. The texts of these notes are substantively identical to the notes exchanged by the United States with the GDR and Czechoslovakia, which have been sent to the Senate for its information.

Section III, Para 3

This paragraph provides, in part, that we may strike continuous monitors from the list provided by the Soviets.

Is there a maximum number to which we may object?

Will KGB and GRU agents be included among the monitors?

May we also object to inspectors of "close-out", "baseline", "elimination" and "spot" inspections and have them stricken from the list?

We may refuse to accept continuous monitoring inspectors, i.e., those Soviets who will be in the US on a long-term basis, at our discretion. While there is no such initial discretionary right of refusal of short-term inspectors or aircrew members under Section III(3), Section III(7) gives us the right to have any individual proposed in either of these categories stricken from the list of inspectors or aircrew members if we determine that he has ever committed a criminal offense here or in a basing country, or been sentenced for committing such an offense or expelled (for any reason) from the US or a basing country. If we make such a determination prior to the individual's actual entry into the US, then he would be denied entry as an inspector or aircrew member.

We retain the right to have the individual deleted from the list of (short-term or continuous monitoring) inspectors or aircrew members at any subsequent time if we determine that any of the conditions mentioned above exist, or that he has violated the Inspection Protocol conditions governing inspection activities -- which include respecting the laws and regulations of the country in whose territory the inspection is being carried out. If that determination is made while the individual is in country, then his government must remove him immediately.

Section III, Para. 7

This paragraph provides that an inspector or aircrew member determined by the host party to have violated conditions of the protocol, or committed a crime shall be removed and stricken from the list.

Who will determine whether an inspector has violated conditions or committed a crime?

The inspected party will determine whether an inspector has violated conditions or committed a crime. Nevertheless, an unfounded and unsubstantiated allegation of commission of a crime, disputed by the inspector in question, would not constitute a basis for requiring removal of the inspector. Such an allegation made in bad faith would, in fact, raise a compliance issue. Only if clear and convincing evidence of commission of a crime was offered would the United States deem the requirements of the provision met.

Section III, para. 7

Is there any due process to protect our inspectors from arbitrary Soviet actions?

Yes, the Annex to the Inspection Protocol, entitled "Provisions on Privileges and Immunities of Inspectors and Aircrew Members," protects our inspectors against arbitrary Soviet actions. Among other things, this Annex accords inspectors "the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention on Diplomatic Relations."

Section IV, para. 1b

This subparagraph provides that 72 hours advance notice be given before "elimination" inspections as opposed to 16 hours advance notice for "baseline", "close-out" and "spot" inspections. What is the rationale for requiring additional advance notice for "elimination" inspections?

Baseline, close-out and quota inspections are designed to deter the basing of undeclared missiles at declared and formerly declared facilities. To accomplish this aim, it is necessary to preserve an element of surprise. Thus, the Inspection Protocol provides for the minimum amount of advance notice that is logistically feasible. In contrast, elimination inspections are designed to enable inspectors to observe the elimination process. To accomplish this aim, the two Parties must cooperate to ensure that inspectors arrive at the site shortly before the elimination process begins. The Inspection Protocol provides for more advance notice to facilitate cooperative logistical arrangements.

Section IV, para. 2

This paragraph provides that the time of "close-out" and "spot" inspections be within 4-24 hours after estimated time of arrival at entry point while the time for "baseline" inspections must be within 4-48 hours. Why is additional time necessary for "baseline" inspections?

At the point of entry, escorts will examine any equipment that the inspection team is bringing into the country to ascertain that it cannot "perform functions unconnected with the inspection requirements of the Treaty." During baseline inspections, inspectors will be bringing a lot of equipment into the country for the first time, so the equipment check might take quite a while. After the first baseline inspections are completed, equipment may be stored in tamper-proof containers in secure facilities at the point of entry. Subsequent equipment checks will be needed only for any additional equipment that the inspection team brings into the country on future visits.

Section V, para. 4

This paragraph prohibits inspectors to bring in equipment or supplies unconnected with inspection activities. How will it be determined which equipment or supplies is or is not connected with inspection activities?

Paragraph 9 of Section VI requires the Parties to agree upon "characteristics and method of use" of inspection equipment within thirty days after entry into force of the Treaty. Thus, a list of permitted inspection equipment will be agreed upon in advance. Examinations at the point of entry will be designed to determine whether equipment being brought into the country meets the specifications on that list. Equipment that meets the specifications will be allowed into the country, unless it also contains "add-ons" not agreed by the Parties that could perform functions "unconnected with the inspection requirements of the Treaty."

Section V, para. 4

Could we, in any way, prevent the Soviets from supplementing equipment and supplies at inspection sites with unconnected items brought into the U.S. in Soviet diplomatic pouches immune to any U.S. inspections?

Soviet inspectors will not be permitted to use diplomatic pouches to bring in or supplement equipment and supplies on official inspection missions. When entering the U.S. or NATO basing countries for the purpose of performing an inspection, inspection equipment and personal baggage the inspectors are carrying will be subject to Customs examination.

Section V, para 5

This paragraph makes the Soviets responsible for transporting our inspection teams. What assurances do we have that our inspectors will not be unduly delayed? What recourse would we have if such a delay was to occur?

If the Soviets fail to transport our inspectors to the site within the nine-hour time limit we have the right to cancel the inspection without counting it against our quota. If the U.S. believed that there was purposeful delay, we would raise the issue with the Soviets as a compliance question within diplomatic channels or within the framework of the SVC.

Section VI, para. 3

This paragraph prohibits inspectors from interfering with, hampering, or delaying operations at inspection sites. Who determines what constitutes interference, hampering or delaying? What actions will be taken against an inspector who "interferes", "hampers" or "delays?"

If U.S. escorts believe that a Soviet inspector is interfering with operations at a site, they have the right to stop him. In extreme cases, they would have the right to remove him from the site. If, on the other hand, we believed that one of our inspectors was accused unjustly of interfering with operations at a site, and the Soviets responded by taking some action that prevented him from carrying out his inspection duties, we would have the right to raise the issue with the Soviets as a compliance question within diplomatic channels or within the framework of the SVC.

Section VI, para. 5

Could this assistance actually hamper our inspectors? What kind of recourse would we have if this was the case?

The Inspection Protocol calls for in-country escorts to assist inspectors because such assistance will be necessary.

Naturally, one cannot exclude the possibility that an escort might attempt to interfere with the activities of our inspectors. In such an event, an individual inspector could appeal to one of the other escorts to discipline his colleague. Failing that, we have the right to raise this matter as a compliance question within diplomatic channels or within the framework of the SVC.

Section VI, para. 7

This paragraph provides inspectors the right to communicate with their local embassy over telephone lines provided the inspected Party. Will these telephone lines be secure from Soviet eavesdropping.

No.

Section VI, para. 9

This paragraph provides, in part, that during "spot" inspections of former missile bases and support facilities, all measurements may be made only by the inspected Party. Why may only the inspected Party perform these measurements? What equipment will they use, and can we verify the accuracy of this equipment?

Once a current INF facility has been eliminated and is no longer involved in INF-related activity, it is possible that the U.S. may wish to use that facility for other military activities. To protect against Soviet collection of sensitive information at such facilities and to avoid the charge of having sought to break the object being inspected, the Protocol provides that the inspected Party will perform all measurements. However, to ensure the accuracy of the measurements, inspectors will have the right to insist that the inspecting Party's equipment be used. Moreover, inspectors will observe the escorts while measurements are taken, and will have the right to request that a measurement be taken again if they believe it was not done correctly the first time.

Section VI, para. 14

This paragraph provides that "baseline", "close-out" and "spot" inspections shall last no longer than 24 hours, unless the in-country escort consents to extend the inspection by up to 8 hours. On what basis will the in-country escort provide or refuse to extend an inspection? What will be our recourse if our inspectors need more than 24-32 hours to conduct a particular inspection?

Each Party will develop its own guidelines to assist its escorts in determining whether to grant a particular extension request. With respect to our own inspection teams, it is our considered judgment that they will be able to complete inspections in the allotted 24-32 hour timeframe.

Section VI, para. 16

This paragraph provides, in part, that the inspected Party will be responsible for inspectors reaching their next site without delay. What will be considered an "unjustified" delay, and who will make this determination? What recourse would we have if our inspectors are "unjustifiably" delayed?

The provision cited here applies only if the inspection team decides that it wishes to proceed directly to the next site, rather than returning first to the point of entry. If the inspection team wishes to preserve an element of surprise, it may choose to return to the point of entry, and then specify the next site, in which case the nine-hour timeline discussed above applies. Thus, the requirement that inspectors be transported "without unjustified delay" applies only in those cases where the inspection team has decided to proceed immediately to another site. Nevertheless, if the team leader believes that he has been delayed unjustifiably he has the right to raise his complaint with the escort. Failing that, we have the right to raise this matter as a compliance question within diplomatic channels or within the framework of the SVC.

Section VII, para. 1

This paragraph prohibits the inspected Party from moving covered missile systems after one hour after the specification of an inspection site. Are these "pre-inspection" movement restrictions to be verified by National Technical Means? Are our National Technical Means capable of verifying compliance with these restrictions within the time constraints of this provision?

The pre-inspection movement restriction will be monitored by National Technical Means. This will pose a risk of detection for the Soviets should they attempt to violate the pre-inspection movement restrictions. This risk of detection will help to deter such violations.

Section VII, Para 5

This paragraph provides that the boundaries of inspection sites will be considered as set forth in the MOU.

Could the Soviets construct or maintain banned systems or equipment outside the boundaries of the site, and avoid inspection?

Through the combination of locational restrictions, movement notifications, national technical means, and various types of on-site inspections, we will be able to track the declared treaty-limited items in the Soviet inventory until they are eliminated. Also, further production is banned by the Treaty. Additionally, the INF Treaty bans flight-testing and training with INF missiles. Without such testing and training, the Soviets would not be able to maintain a militarily viable and reliable force. Should the Soviets attempt to construct or maintain banned systems or equipment outside the boundaries of the sites, it would likely be detected.

Section VII, para. 7

What is the smallest limited item of the SS-20? Will the U.S. be able to search for that item anywhere within the entire inspection site?

While inspecting, for example, an SS-20 missile operating base, U.S. inspectors will have the right to search not only for the smallest item associated with the SS-20, but for the smallest Soviet items subject to the Treaty. There are four "smallest" items: the SS-4 launcher, SSC-X-4 missile, SS-12 first stage and SS-23 first stage. These four are all "smallest" in the sense that any container capable of containing any other Soviet missile, missile stage, launcher or piece of support equipment subject to the Treaty will necessarily be capable of containing one of these four. During inspections of Soviet missile operating bases and missile support facilities, U.S. inspectors will be able to inspect any container anywhere within the inspection site capable of containing any of these four items. Since the SS-20 missile, missile stages, launcher and pieces of support equipment are all larger than the four items listed above, it follows that U.S. inspectors will have the right to inspect any container capable of containing any item associated with the SS-20 that is subject to the Treaty.

Section VII, para. 8

This paragraph provides that missiles, stages or launchers or canisters not large enough to contain a prohibited missile or stage may be inspected only by external visual observation. But who will do the necessary measuring, the inspectors or the in-country escorts?

Inspectors will perform the measurements, except during inspections of formerly declared facilities, in which case the in-country escorts using the inspecting Party's equipment will perform the measurements under observation by the inspectors as described in the answer to Section VI, para. 9.

Section VII, para. 8

Could such canisters contain SS-20s? Could we verify whether or not such canisters contain SS-20s through external inspection alone? Do U.S. radiation detectors have the ability to tell how many warheads are carried inside a missile within a canister, or where there may be empty space within a canister?

Inspection procedures vary, depending upon the type of container. There are four relevant cases:

1. A Container too small to contain an SS-20 may be measured to verify that it is in fact too small to contain an SS-20.
2. A container large enough to contain an SS-20 that is declared not to contain a missile or missile stage is subject to inspection by means of weighing or visual observation of the interior to verify that it does not in fact contain a missile or missile stage. During inspections of formerly declared facilities, escorts may also use any other means they choose to prove that the container does not contain a missile or missile stage.
3. A container large enough to contain an SS-20 that is declared to contain an SS-20 may be measured to ascertain whether it is large enough to contain more than one SS-20. If

it is large enough, it is subject to inspection by means of weighing or interior visual observation to verify that it does not contain more than one SS-20.

4. If the container is an SS-25 launch canister, and it is declared to contain an SS-25, it is subject to external inspection only, including use of radiation detection devices. Further information on this is classified.

Section VII, para. 10

What constitutes inaccessible, and how will it be determined? Can we verify that such structures do not have concealed entrances?

It will be the responsibility of the in-country escort to demonstrate to the inspectors that a space is "inaccessible." If the inspectors are not satisfied by a demonstration, they have the right to request a further demonstration. If the inspectors so request, and the escorts believe that the demonstration already provided is sufficient, they may refuse to provide a further demonstration. In that event, the inspecting Party could raise the matter as a compliance issue through diplomatic channels or in the framework of the Special Verification Commission.

While we cannot verify with 100% confidence that a building does not have hidden entrances, inspectors do have the right to search for concealed entrances as long as they do not violate any other conditions of the Protocol in the process.

Section VII, para. 11

This para provides inspection teams the right to patrol the perimeter of inspection sites. Can this entail continuous monitoring of the perimeter?

It could entail continuous monitoring of the perimeter for the 24-32 hours allotted for an inspection.

Section VII, para. 14

This paragraph provides, in part, that during "spot" inspections of missile bases and facilities, launch canisters declared to contain a missile not covered by the Treaty -- such as the SS-25 -- shall be subject to external inspection only. Could such canisters contain SS-20s? Can we verify through external inspection alone that these canisters do not contain SS-20s or other prohibited missiles?

Inspection procedures vary, depending upon the type of container. There are four relevant cases:

1. A Container too small to contain an SS-20 may be measured to verify that it is in fact too small to contain an SS-20.
2. A container large enough to contain an SS-20 that is declared not to contain a missile or missile stage is subject to inspection by means of weighing or visual observation of the interior to verify that it does not in fact contain a missile or missile stage. During inspections of formerly declared facilities, escorts may also use any other means they choose to prove that the container does not contain a missile or missile stage.
3. A container large enough to contain an SS-20 that is declared to contain an SS-20 may be measured to ascertain whether it is large enough to contain more than one SS-20. If

it is large enough, it is subject to inspection by means of weighing or interior visual observation to verify that it does not contain more than one SS-20.

4. If the container is an SS-25 launch canister, and it is declared to contain an SS-25, it is subject to external inspection only, including use of radiation detection devices.

Section VIII, para. 1d

This subparagraph provides inspectors the right to visual observation of elimination launchings. Does visual observation include measurements of the actual missiles taken inside the canister?

This paragraph gives inspectors the right to ascertain by visual observation that "a missile prepared for launch is a missile of the type subject to elimination." At a minimum, this will involve looking at the missile inside the canister. If that is not sufficient to ascertain what type of missile it is, inspectors could also perform measurements. These methods could also be supplemented by photographing the missile immediately after launch, which should remove any doubts about the type of missile being launched.

Section IX, para. 3

This paragraph provides, in part, that exits to inspection sites may be monitored by appropriate sensors. What will be considered "appropriate." This paragraph also provides inspectors the right to patrol the perimeter and exits of the site. What kind of patrol will this be: random, regular or continuous?

Paragraph 12 of Section IX gives the U.S. the right to weigh and measure the dimensions of any vehicle exiting Votkinsk to ascertain whether it is large enough and heavy enough to contain an SS-20. Sensors at site exits will be "appropriate" for this purpose. Detailed specifications for these sensors will be agreed in the ongoing U.S.-Soviet technical talks.

The Inspection Protocol gives us the right to patrol the perimeter and exits of Votkinsk continuously.

Section IX, para. 5

This paragraph requires that a number of items necessary for inspection be provided by the inspected Party, including "appropriate" sensors and telephone lines and radio equipment. Why are such items to be provided by the inspected Party? Do we have a way to calibrate the accuracy of sensors provided by the Soviets? What rights do we have if sensors prove inaccurate? Will communications over Soviet-provided telephone and radio equipment be secure?

This paragraph does not call for the inspected Party to provide sensors. Rather, it calls for the inspected Party to provide "the site preparation necessary to accommodate the installation of ... appropriate sensors." Thus, the U.S. will supply its own sensors at Votkinsk.

Telephone lines and radio equipment are to be provided by the inspected Party because it is more efficient than it would be for the inspecting Party to supply its own. Communications over Soviet-provided telephone and radio equipment will not be secure.

Section IX, para. 6(b)

This subparagraph provides inspectors the right to install weight sensors at exits. Do we know the weight of an SS-25 missile and canister? Would our inspectors be able to determine if a canister contains an SS-25 or an SS-20 using weight sensors?

The Soviets did not tell us the weight of an SS-25 missile and canister, but that information is not relevant to the inspection task. The purpose of the weight sensors is not to determine whether a canister contains an SS-25 or an SS-20. Rather, it is to determine whether a particular container is heavy enough to contain an SS-20, whose weight the Soviets have given us. We will be able to verify that weight during baseline inspections. Any vehicle exiting Votkinsk that is large enough and heavy enough to contain an SS-20 will be subject to inspection according to the procedures in paragraphs 13 and 14 of Section IX. Those procedures will give us high confidence that no SS-20s are exiting Votkinsk.

Section IX, para. 9

This paragraph provides the inspected Party the right to establish power and frequency restrictions for radio communications between inspectors patrolling a site and their data collection facility. Will this arrangement permit communications secure from Soviet eavesdropping?

No, it will not permit secure communications.

Section IX, para. 10

This paragraph prohibits aircraft from landing within the perimeter of monitored sites except for emergencies and with notice. Does this provide for two types of permitted landings (emergency and notified)?

No, aircraft are permitted to land only if both conditions are satisfied. Thus, even with prior notification aircraft would not be permitted to land at the site unless there was an emergency.

Section IX, para. 11

This paragraph requires the inspected Party to notify inspectors of shipments capable of carrying a banned missile before exiting the site. Do we know the weight of an SS-20 with front section and warheads? How would this compare to the weight for an SS-20 without front section (provided in the MOU)? Could the Soviets declare an SS-25 canister containing an SS-20 to be heavier than the figure provided in the MOU, and thus exempt it from interior inspection?

Questions about the weight of an SS-20 with front section cannot be answered on an unclassified basis.

The U.S. has the right to weigh and measure any vehicle exiting Votkinsk to see whether it is large and heavy enough to contain an SS-20. Any vehicle exiting the site that attempted to carry an SS-20 inside an SS-25 canister would be large enough and heavy enough to contain an SS-20, and would thus be subject to further inspection.

The nature of that inspection would depend upon what the Soviets declare. If the Soviets declared such a vehicle to contain an SS-25, the canister could be imaged, and it would be subject to random interior inspection (eight times per year). If the Soviets claimed that the canister did not contain a missile, they would be obligated to demonstrate that claim.

Section IX, para. 13(a)

This subpara provides inspectors the right to inspect the interior of all vehicles exiting the plant which are large enough and heavy enough to carry a banned missile or stage. Does this right include inspection inside any canister carried by the vehicle?

Consider a vehicle exiting Votkinsk that is large enough and heavy enough to carry an SS-20. Assume that inside the vehicle there is a container or shrouded object. Such a container or shrouded object will fall into one of three categories:

1. if inspectors can ascertain by visual observation or dimensional measurement that it is too small to be or to contain an SS-20, it is not subject to further inspection;
2. if it is declared to contain an SS-25, the provisions of paragraph 14 apply;
3. if it is large enough to contain an SS-20, but it is declared not to contain a missile or missile stage, the inspected Party is obligated to prove that it does not contain an SS-20.

Section IX, para. 13(c)

This subparagraph makes it the responsibility of the inspected Party to demonstrate that containers or objects large enough to contain a banned missile or stage does (sic) not contain such item. How would the inspected Party make such a demonstration? Would the inspectors in such a situation have the right to inspect such containers or objects?

In most cases, the simplest way for the inspected Party to demonstrate that such a container does not contain a banned missile or stage will be to open the container so that inspectors can view the inside. However, in certain cases it might be impractical to open the container, or it might entail a risk of compromising sensitive information. In such a case, if the container is too light to contain a banned missile or missile stage, the inspected Party could weigh the container to prove that it is too light to contain such a missile or missile stage. Other methods are also possible, but the inspected Party must prove to the satisfaction of the inspectors that the container does not contain a banned missile or missile stage.

Section IX, para. 14(c)

This subparagraph provides, in part, that inspectors may open canisters exiting the site which are larger or heavier than a missile or stage banned by the Treaty on a random basis no more than 8 times a year. Upon opening such canisters, will our inspectors be able to view all three stages sufficient to accurately measure the length and diameter of all stages? Have we ever seen an SS-20 Post-Boost Vehicle, and if not, how will we be able to ascertain that a missile exiting the plant is not an SS-20? In determining whether or not a missile inside a canister is an SS-20, will our inspectors use the current Soviet picture or our original intelligence estimate?

When examining the contents of canisters exiting Votkinsk, the first thing our inspectors will want to know is whether the missile inside the canister has two stages, as does the SS-20, or three stages, as does the SS-25. That can be easily determined simply by looking at the missile.

Assuming that the missile inside the canister has three stages, we will still want to measure the length and diameter of the second stage to ensure that the Soviets do not simply add a third stage onto the SS-20. Measurement of the first stage would be insufficient to determine whether the missile is an SS-20, because the first stages of the SS-20 and SS-25, according to the Soviets, are outwardly similar.

The Soviets have given us data on the length and diameter of both the SS-20 second stage and the SS-25 second stage, which are sufficiently different to enable us to distinguish between an SS-20 and an SS-25. We have the right to verify the data on the SS-20 second stage during baseline inspections. We will also be able to confirm this data during elimination inspections. If measurements of the second stage of a missile exiting Votkinsk confirm that the stage does in fact have different dimensions from the second stage of an SS-20 we will know that the missile exiting Votkinsk is not an SS-20.

Section X

This section provides that inspections may be cancelled if due to circumstances brought about by "force majeure", they cannot be carried out.

What is the definition of "force majeure" in US domestic law?, international law?, Soviet law?

Under international law, which would provide the basis for interpreting the term in the context of the INF Treaty, the meaning of "force majeure" is well understood as referring to a "higher force" or "an occurrence which is beyond human control" (Parry & Grant, Encyclopaedic Dictionary of International Law 135 (1986)). A Soviet international law dictionary essentially concurs with this understanding of the term, defining it as an "irresistible force . . . an emergency that cannot be averted under the given circumstances (e.g., flood, earthquake, storm and other calamities) which, as a rule, releases persons from liability for the non-fulfillment of a contract" (Saifulin, A Dictionary of International Law 85 (1986)). The meaning of the term under U.S. law is essentially equivalent: a "superior or irresistible force"; the situation existing when a provision of a contract "cannot be performed due to causes which are outside the control of the parties and could not be avoided by the exercise of due care" (Black's Law Dictionary 581 (5th ed., 1979)).

Questions from Helms Memorandum: Issue VI

Why does the Treaty and its Protocols permit the Soviet Union to retain roughly three to four times as many nuclear warheads as are retained by the United States?

The INF Treaty does not require physical destruction of the actual nuclear explosive devices. By destroying the means of delivering INF missile nuclear warhead devices, the Treaty will remove the military threat posed by them. For a number of reasons, the U.S. determined that it would not be in our interest to eliminate the nuclear warhead devices themselves. Verifying the elimination of nuclear warhead devices raises formidable technical challenges and difficult security issues. Intrusive verification measures could disclose sensitive nuclear weapons information to the Soviet Union. Finally, the nuclear warhead devices contain costly and scarce resources which it would be imprudent to destroy.

Data on the actual numbers of U.S. warheads and estimates on the numbers of Soviet warheads are, of course, classified.

Why does the Treaty fail to prohibit the reloading of these warheads or to provide safeguards against their reloading and retargeting either on NATO or the United States?

The provision reflects U.S. wish not to have to destroy costly fissionable materials and guidance elements from INF missiles. However, as a practical matter, the warheads cannot be simply "reloaded" onto or "retargetted" on other missiles.

Why does the Treaty and its Protocols fail to require the elimination of the nuclear warheads and associated guidance systems?

The INF Treaty does not require physical destruction of the actual nuclear explosive devices (called "nuclear warhead devices" in the Treaty -- the packages containing the fissionable material). Such destruction was never proposed by either side in Geneva. We could not physically destroy nuclear materials, nor would it be possible to verify restrictions on nuclear explosive devices or the disposition of their nuclear materials without exposing sensitive information. Moreover, we wished to reserve the right to reuse these materials.

Both the warheads and the guidance systems are expensive and use highly sensitive and sophisticated technology. The U.S. wished to be able to salvage them both to prevent possible compromise of design information during any elimination process and to preserve the possibility for their future use in other systems.

Why does the Treaty and its Protocols deny to the U.S. inspection rights at suspect sites for systems covered by the Treaty?

It was the conclusion of the Administration that, in the context of the INF Treaty, "anytime, anywhere," inspections added little to the already extensive and unprecedented INF verification regime when balanced against the possible risks to other U.S. and Allied security interests which they raised.

Why does the Treaty and its Protocols permit the retention of 15 launchers with missiles and nuclear warheads on so-called "static display".

"Static display" is one agreed form of elimination under the Treaty. In accordance with the terms of the Treaty, such missiles and launchers must be rendered inoperative and the location designated. The sides are permitted on-site inspection to assure that the requirements to render the systems inoperative have been met.

Under these provisions we may anticipate an exhibit of U.S. PII and GLCM at such places as the Smithsonian Air and Space Museum. Naturally, missiles on static display will not have nuclear warheads.

Why does not the Treaty and its Protocols permit inspection of SS-25 launch canisters to ensure that they in fact contain SS-25 missiles and not the equally compatible SS-20?

At the Soviet missile final assembly facility at Votkinsk, U.S. inspectors will have the right to measure and image all SS-25 canisters declared to contain SS-25s exiting through the Votkinsk portal to ensure that they do not contain an SS-20. Eight times a year on a random basis, U.S. inspectors will have the right to view the interiors of such SS-25 canisters to ensure they do not contain Treaty-limited SS-20 missiles. In addition, U.S. inspectors will also have the right to examine the interior of all vehicles that exit through the portal that are large enough and heavy enough to contain an SS-20 and that the Soviets declare not to contain a GLBM, and the Soviets must demonstrate that any shrouded objects or containers are not and do not contain intermediate range GLBM.

The opportunity to inspect (using non-destructive imaging) every canister that leaves the SS-25 final assembly facility with the right to open 8 SS-25 canisters per year, combined with enhanced NTM monitoring and on-site inspection rights for 13 years at SS-20 bases, including those that are converted to SS-25 bases, will help deter the Soviets from attempting to hide prohibited SS-20s in SS-25 canisters.

All SS-20 bases, including those that are converted to SS-25 bases after November 1, will be subject to on-site inspection for 13 years after the Treaty enters into force. We will be able to measure the SS-25 canisters at these bases. In addition, we can use radiation detection devices to further ascertain that such canisters at formerly declared SS-20 bases do not contain SS-20s.

Why does not the Treaty and its Protocols require an exchange of engineering specifications so that it can be verified that eliminated missiles are operational systems and not factory rejects?

The data exchanged in the Data MOU is sufficient to effectively identify each missile without compromising sensitive information. All INF missiles no matter what their status (deployed or nondeployed) must be eliminated. U.S. inspectors will be present to monitor such elimination.

Why does the Treaty and its Protocols fail to cover all ground-based Soviet missiles in Europe which are capable of use at intermediate range?

Why does the Treaty and its Protocols fail to cover all ground-based Soviet missiles in Europe which are capable of use at shorter-range?

The INF Treaty covers those ground launched missiles with a range of 500 to 5500 km. There is no limitation in the Treaty on systems of a range greater than 5500. Strategic systems, wherever based, are not included in the INF Treaty but can cover targets in Europe. To do so, however, would entail some costs. For example, diversion of strategic systems to INF tasks would mean diminution of strategic target coverage. Moreover, such Soviet systems would not have the same political effect on Europe as the SS-20 since Soviet strategic systems are perceived as threatening both the United States and Europe while the SS-20 is viewed by many Europeans as threatening only Europe. We are negotiating for reduction in strategic systems in the START negotiations.

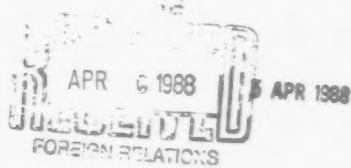
Why does Article XIV (non circumvention) not make it expressly clear that anti-tactical ballistic missile systems (ATBM) are not considered a circumvention?

There is no need for a specific exemption for ATBM in Article XIV, which, in any case, is not a "non circumvention" article and does not add any new obligation to the Treaty. Article VII, para 3 permits development of such systems ("If a GLBM is of a type developed and tested solely to intercept and counter objects not located on the surface of the earth, it shall not be considered to be a missile to which the limitations of this Treaty apply.")



THE DEPUTY SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301



Honorable Claiborne Pell
 Chairman, Committee on Foreign Relations
 United States Senate
 Washington, D.C. 20510-6225

Dear Mr. Chairman:

Thank you for your letter of February 29, 1988, requesting a detailed report concerning implementation of the INF Treaty's inspection and elimination program. The attached report provides a breakdown of the personnel, organization, and interagency structure for monitoring Soviet compliance with the Treaty and for coordinating U.S. compliance. The report, as you requested, also includes the estimated costs for monitoring Soviet compliance and for carrying out U.S. obligations.

I hope this report will assist your Committee as well as the full membership of the Senate with its efforts to achieve Senate consent for ratification of this truly historic arms control agreement.

Sincerely,

William H. Taft IV
 William H. Taft, IV
 Deputy Secretary of Defense

Attachment
 a/s

Reply to Senator Pell's Request for a Report on
INF Treaty Implementation

(U) This report responds to the request for information on how the INF Treaty's inspections and eliminations will be implemented. It specifically includes information on the organizations and interagency structure which will monitor Soviet compliance with the Treaty and which will coordinate U.S. compliance. Treaty implementation, monitoring, and verification costs are also included.

Monitoring Judgments (Intelligence Community)

(U) The on-site inspections carried out under the Treaty will provide a source of information that will be an important component in formulating monitoring judgments. Data from these inspections will be integrated with intelligence data collected by our National Technical Means (NTM) to ensure extensive and accurate monitoring of Soviet activity with respect to the INF Treaty.

Monitoring Manager

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Soviet Compliance Judgments (Policy Community)

(U) Compliance judgments will continue to be made by the Policy Community using the structure (described below) currently established within the National Security Council system.

The ACVC

(U) The Arms Control Verification Committee (ACVC) will address issues of Soviet compliance with the INF Treaty. The ACVC is chaired by the Assistant to the President for National Security Affairs. Members, in addition to the chairman, include the Assistant Secretary of State for Politico-Military Affairs; Assistant Secretary of Defense for International Security Policy (ISP); Assistant Secretary of Energy for Defense Programs; Chairman of the DCI's Strategic Arms Monitoring Working Group (CIA); Deputy Director, International Negotiations for the Organization of the Joint Chiefs of Staff (OJCS); and Assistant Director of

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the Arms Control and Disarmament Agency (ACDA) in charge of the Bureau of Verification and Intelligence. Other agencies and representatives will be designated by the Chairman, as appropriate, for specific tasks. In order for the ACVC to function effectively and efficiently, two parallel groups have been created internally.

1. The ACVC Policy Group (ACVC-PG)

(U) In support of the ACVC's policy function, an ACVC Policy Group (ACVC-PG) has been established under the co-chairmanship of the Assistant Secretary of State, Bureau of Politico-Military Affairs and Intelligence and the Assistant Secretary of Defense for International Security Policy. Membership includes the senior agency officials on the ACVC and the Deputy Assistant to the President for National Security Affairs.

(U) The ACVC-PG's responsibilities for INF will parallel those it already exercises for other agreements. These include:

- Development of Administration policy on verification and compliance.
- Assessment of verification aspects of existing or proposed agreements in terms of their legal, political, and military requirements and risks.
- Oversight of preparation of periodic reports on verification and compliance policy issues for the National Security Council and the President.
- Oversight of U.S. Government preparation of testimony and correspondence vis-a-vis the Congress and of the periodic reports to the Congress on verifiability as mandated by Section 37 of the Arms Control and Disarmament Act.

2. The ACVC Analysis Group (ACVC-AG)

(U) To provide technical and analytical support to the ACVC, an ACVC Analysis Group (ACVC-AG) has been established under the co-chairmanship of the Chairman of the DCI's Strategic Arms Monitoring Working Group and the Assistant Director of ACDA in charge of the Bureau of Verification and Intelligence. Members include the other senior officials of the ACVC or their representatives, as appropriate.

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Implementation

(U) The philosophy for developing an INF implementation infrastructure has been guided by three prime objectives: perform the compliance and verification jobs right; perform these functions in time to meet our obligations under the Treaty; and minimize costs to the Government. All of the functions required to implement INF, with the exception of the on-site inspection capability, will be carried out by existing Executive Branch agencies or military services.

(U) The Under Secretary of Defense for Acquisition is responsible for ensuring Department of Defense compliance with all arms control agreements. In November 1987, the DoD identified planning steps that would be necessary if and when the INF Treaty was signed. Specifically, each Service and DoD agency was tasked to develop plans that were consistent with the already existing DoD compliance process, identify actions needed to comply with the elimination provisions of the Treaty, and begin preparations that must be undertaken prior to entry into force to protect sensitive information at facilities subject to on-site inspection.

(U) The Secretary of the Air Force has primary responsibility for planning and accomplishing the elimination of the GLCM and its associated items subject to elimination. Similarly, the Secretary of the Army has primary responsibility for elimination of the Pershing 1A and the Pershing II and associated items as required by the Treaty. The Secretary of the Army is lead for the DoD environmental assessment of the INF Treaty.

1. The On-Site Inspection Agency

(U) The On-Site Inspection Agency has been established to manage the conduct of the inspections required by the INF Treaty. The OSIA will conduct U.S. inspections of Soviet facilities ("blue-on-red" inspections) and coordinate U.S. activities associated with Soviet inspection of U.S. facilities ("red-on-blue" inspections). The OSIA operates under guidance from the Policy Community mechanisms established under the NSC. The Department of Defense (DoD) will provide administrative support to the OSIA.

(U) DoD has established OSIA as a field operating activity. The Director of OSIA reports directly to the Under Secretary of Defense for Acquisition and, within DOD, OSIA receives guidance from an Executive Committee comprised of the Under Secretary of Defense for Acquisition, the Under Secretary of Defense for Policy and the Chairman of the Joint Chiefs of Staff. To avoid creation of a new support bureaucracy for OSIA, most support functions were tasked to other agencies. For example, the Defense Nuclear Agency will provide administrative, contracting, and budgeting support to OSIA. The effect of this approach will allow us to comply with our Treaty obligations at the needed time at the lowest cost and to integrate INF implementing activities fully into the existing infrastructure.

(U) The OSIA is responsible for acquiring, training, equipping, maintaining, and managing personnel and other resources required to support U.S. inspections of Soviet INF facilities and to manage Soviet inspections of U.S. INF facilities. Some personnel will be provided, on an as-needed basis, by other government agencies.

For resources and personnel provided by another government agency, the OSIA is responsible for the training and logistics support unique to the inspection mission.

(U) The OSIA will maintain close liaison with other interested Executive departments and agencies including, among others as necessary, the Department of State, the Department of Energy, ACDA, and the FBI. A representative of ACDA is the OSIA Director's Principal Deputy and Department of State and FBI officers have been designated as OSIA Deputy Directors.

(U) The OSIA is specifically designed to handle the demands of the INF Treaty provisions. It is built around a full time Headquarters element, consisting of a Director, a Principal Deputy Director, two Deputy Directors, a special staff, and a functionally organized staff. The actual inspections are managed by the Inspection Division, which will control 20 inspection teams of 10 persons each. The majority of the team members are on-call (TDY/TAD) personnel. From these two hundred inspectors will also be drawn the U.S. elimination inspection teams. Escort for Soviet inspectors will be handled through the Escort Division, which manages the point of entry teams at Washington, D.C., San Francisco, and in Europe, as well as escort teams for Soviet inspections. Up to half of the personnel in this division will be on-call (TDY/TAD) from their permanent jobs. A separate portal monitoring team for Votkinsk, and the escort team for Magna, Utah, will be established to oversee the continuous monitoring activities at these locations.

2. The NRRCs

(U) The Nuclear Risk Reduction Centers (NRRCs), established by the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Establishment of Nuclear Risk Reduction Centers on September 15, 1987, will transmit and receive the notifications required under the Treaty. The U.S. and Soviet NRRCs will communicate at the government-to-government level by direct satellite communication links capable of rapidly transmitting full texts and graphics. The first notifications will take place within one day of entry into force of the Treaty. The OSIA will receive notifications directly from the NRRCs and will be responsible for distributing them to the inspection teams, escorts, and inspection sites, as appropriate.

Treaty Costs

(U) The following table provides estimated costs for monitoring Soviet compliance with the Treaty, and for carrying out U.S. obligations, for the fiscal years 1988 and 1989.

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PAGES 9, 10, AND 11
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